AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 84 Monday,
No. 174 September 9, 2019

Pages 47115–47404

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.federalregister.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.govinfo.gov*, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $860 plus postage, or $929, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 84 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**

General online information **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

The Federal Register Printing Savings Act of 2017 (Pub. L. 115-120) placed restrictions on distribution of official printed copies of the daily **Federal Register** to members of Congress and Federal offices. Under this Act, the Director of the Government Publishing Office may not provide printed copies of the daily **Federal Register** unless a Member or other Federal office requests a specific issue or a subscription to the print edition. For more information on how to subscribe use the following website link: *https://www.gpo.gov/frsubs.*

Printed on recycled paper.

Contents

Federal Register

Vol. 84, No. 174

Monday, September 9, 2019

Bureau of Consumer Financial Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 47264

Census Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 47233–47239

Coast Guard
RULES
Merchant Mariner Medical Manual (COMDTINST M16721.48), 47141–47146
Safety Zone:
Research Vessel POLARCUS ALIMA, Cook Inlet, Homer, AK, 47123–47125

Commerce Department
See Census Bureau
See Foreign-Trade Zones Board
See Industry and Security Bureau
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Commodity Futures Trading Commission
NOTICES
Fees for Reviews of the Rule Enforcement Programs of Designated Contract Markets and Registered Futures Associations, 47262–47264
Meetings:
Global Markets Advisory Committee, 47261–47262

Comptroller of the Currency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 47340–47344

Education Department
NOTICES
Privacy Act; Systems of Records, 47265–47271

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Meetings:
Secretary of Energy Advisory Board, 47271–47272
Orders:
ConocoPhillips Co.; Southern California Gas Co.; Tuscarowa Trading, LLC; et al., 47272–47273

Environmental Protection Agency
RULES
Pesticide Tolerances:
Abamectin, 47130–47136
Tolerance Exemption:
Alcohols, C2-33, Manuf. of By-products from, Overheads, 47136–47141
C10-C16 Alkylbenzene Sulfonates, 47125–47130
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Arizona; Maricopa County Air Quality Department, 47211–47213
Florida; Source-Specific SO_2 Permit Limits & Redesignation of Hillsborough-Polk 2010 1-Hr SO_2 Nonattainment Area to Attainment & Mulberry Unclassifiable Area to Attainment/Unclassifiable, 47216–47231
Georgia; Nonattainment New Source Review, 47213–47216
National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing Residual Risk and Technology Review, 47346–47404
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 47285–47287
Pesticides:
Interim Process for Evaluating Potential Synergistic Effects of Pesticides During the Registration Process, 47287–47288

Export-Import Bank
NOTICES
Review of Economic Impact Procedures and Methodology, 47289
Review of Proposed Guidelines for Assessing Additionality Related to Providing EXIM's Support for Medium and Long Term Export Transactions, 47288–47289

Federal Aviation Administration
RULES
Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures, 47115–47121
PROPOSED RULES
Airworthiness Directives:
328 Support Services GmbH (Type Certificate Previously Held by AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH) Airplanes, 47173–47175
Bombardier, Inc., Airplanes, 47170–47172
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Mitsubishi MU–2B Series Airplane Special Training, Experience, and Operating Procedures, 47340

Federal Communications Commission
RULES
Use of Spectrum Bands Above 24 GHz for Mobile Radio Services, 47146–47147
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 47289–47292

Federal Deposit Insurance Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 47340–47344

Federal Energy Regulatory Commission
NOTICES
Application:
Commonwealth LNG, LLC, 47284–47285
Lock+TM Hydro Friends Fund XXII, LLC, 47281
Lock+TM Hydro Friends Fund XXIII, LLC, 47284
Lock+TM Hydro Friends Fund XXVI, LLC, 47275–47276
Oregon State University, 47283–47284
Texas Eastern Transmission, LP, 47276–47277
Combined Filings, 47277–47279, 47281–47282
Declaration of Intention:
Dyberry Creek Farm, LLC, 47274–47275
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
527 Energy, 47274
Invenergy Wilkinson Solar Holdings LLC, 47280–47281
Lily Solar Lessee, LLC, 47274
Lily Solar LLC, 47273
Madison BTM, LLC, 47280
Madison ESS, LLC, 47281
Poseidon Wind, LLC, 47277
Records Governing Off-the-Record Communications, 47279–47280

Federal Mine Safety and Health Review Commission
NOTICES
Meetings; Sunshine Act, 47293

Federal Reserve System
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 47340–47344
Change in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 47293
Acquisitions of Shares of a Bank or Bank Holding Company; Correction, 47293

Federal Trade Commission
NOTICES
Proposed Consent Agreement:
DCR Workforce, Inc., 47299–47301
EmpiriStat, Inc., 47298–47299
LotaData, Inc., 47295–47296
Thru, Inc., 47293–47295
Trueface.ai, 47296–47298

Fish and Wildlife Service
PROPOSED RULES
Endangered and Threatened Species:
Reclassifying the American Burying Beetle from Endangered to Threatened, 47231–47232

Food and Drug Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Medical Devices; Use of Symbols in Labeling—Glossary To Support the Use of Symbols in Labeling, 47306–47308
Determinations that Products Were Not Withdrawn from Sale for Reasons of Safety or Effectiveness:
CALCIMAR (calcitonin salmon) Injection, 200 International Units Per Milliliter, 47312–47313
Electronic Submissions; Data Standards; Support for Unified Code for Units of Measure, 47308–47309
Guidance:
Acceptance Review for De Novo Classification Requests, 47310–47312
Withdrawal of Approval of 25 New Drug Applications:
Eli Lilly and Co., et al, 47309–47310

Foreign Assets Control Office
RULES
Cuban Assets Control Regulations, 47121–47123

Foreign-Trade Zones Board
NOTICES
Approval of Subzone Status:
HP International Trading B.V. (Puerto Rico Branch), LLC Aguadilla, PR, 47240
Puerto Rico Wood Treating Industries, Inc.; Carolina, PR, 47240–47241
Authorization of Production Activity:
Hitachi Automotive Systems Americas, Inc., Foreign-Trade Zone 39, Louisville, KY, 47239
Merck and Co., Inc.; Foreign-Trade Zone 185; Front Royal, VA, 47240
Proposed Production Activity:
Lasko Products, LLC, Foreign-Trade Zone 78, Nashville, TN, 47240

Government Ethics Office
NOTICES
Privacy Act; Systems of Records, 47301–47306

Health and Human Services Department
See Food and Drug Administration
See National Institutes of Health
NOTICES
Requests for Nominations:
President's Council on Sports, Fitness and Nutrition Science Board, 47313

Homeland Security Department
See Coast Guard
PROPOSED RULES
Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I–765 Employment Authorization Applications, 47148–47170

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Multifamily Mortgagee's Application for Insurance Benefits, 47315–47316
Delegation of Concurrent Authority to the Associate Deputy Secretary, 47316

Industry and Security Bureau
NOTICES
Denial of Export Privileges
Sammy Smith, 47241–47242

Interior Department
See Fish and Wildlife Service
See Ocean Energy Management Bureau

Internal Revenue Service
PROPOSED RULES
Advance Payments for Goods, Services, and Other Items, 47175–47191
Taxable Year of Income Inclusion under an Accrual Method of Accounting, 47191–47210

International Trade Administration
NOTICES
Initiation of Antidumping and Countervailing Duty Administrative Reviews, 47242–47255

International Trade Commission
NOTICES
Complaint:
Certain Collapsible and Portable Furniture, DN 3404; Solicitation of Comments Relating to the Public Interest, 47321–47323
Certain Pouch-Type Battery Cells, Battery Modules, and Battery Packs, Components Thereof, and Products Containing the Same, 47323–47324

Justice Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 47324

Labor Department
See Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Jobs for Veterans State Grants Reports, 47324–47325

National Credit Union Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Personnel Security Processing Form, 47327

National Institute of Standards and Technology
NOTICES
Preliminary Draft of the NIST Privacy Framework, 47255–47256

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 47314–47315
National Heart, Lung, and Blood Institute, 47314
National Institute of Biomedical Imaging and Bioengineering, 47313–47314

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
Fisheries of the South Atlantic Southeast Data, Assessment, and Review, 47257–47258
Mid-Atlantic Fishery Management Council, 47256–47258
New England Fishery Management Council, 47258–47260
North Pacific Fishery Management Council, 47260–47261
Pacific Fishery Management Council, 47257

Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Personal Protective Equipment for General Industry, 47325–47327

Ocean Energy Management Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Gas Production Requirements in the Outer Continental Shelf, 47317–47321

Postal Regulatory Commission
NOTICES
New Postal Products, 47327–47328

Postal Service
NOTICES
Product Change:
Priority Mail Express and Priority Mail Negotiated Service Agreement, 47328

Securities and Exchange Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 47336–47337
Self-Regulatory Organizations; Proposed Rule Changes:
Investors Exchange, LLC, 47330–47334
LCH SA, 47328–47330
NYSE Arca, Inc., 47337
The Nasdaq Stock Market, LLC, 47334–47336

Small Business Administration
NOTICES
Disaster Declaration:
Ohio, 47337–47338
Pennsylvania, 47338

State Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Shrimp Exporter's/Importer's Declaration, 47338–47339
Culturally Significant Objects Imported for Exhibition:
Exhibition of Three Works of Art from the Wyvern Collection, London, 47338

Surface Transportation Board
NOTICES
Abandonment Exemption:
CSX Transportation, Inc. in Pinellas County, FL, 47339–47340

Transportation Department
See Federal Aviation Administration

Treasury Department
See Comptroller of the Currency
See Foreign Assets Control Office
See Internal Revenue Service

Separate Parts In This Issue

Part II
Environmental Protection Agency, 47346–47404

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

8 CFR
Proposed Rules:
208 47148

14 CFR
97 (4 documents) 47115, 47116, 47118, 47120
Proposed Rules:
39 (2 documents) 47170, 47173

26 CFR
Proposed Rules:
1 (2 documents) 47175, 47191

31 CFR
515 47121

33 CFR
165 47123

40 CFR
180 (3 documents) 47125, 47130, 47136
Proposed Rules:
52 (3 documents) 47211, 47213, 47216
63 47346
81 47216

46 CFR
10 47141

47 CFR
25 47146

50 CFR
Proposed Rules:
17 47231

Rules and Regulations

Federal Register
Vol. 84, No. 174
Monday, September 9, 2019

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31267; Amdt. No. 3865]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective September 9, 2019. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of September 9, 2019.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29 Room 104, Oklahoma City, OK 73169. Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under

5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on August 9, 2019.

Rick Domingo,

Executive Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 12 September 2019

Cross City, FL, Cross City, RNAV (GPS) RWY 31, Amdt 1C
Fort Myers, FL, Page Field, ILS OR LOC RWY 5, Amdt 7D
Fort Myers, FL, Page Field, RNAV (GPS) RWY 5, Amdt 1
Fort Myers, FL, Page Field, RNAV (GPS) RWY 13, Amdt 1F
Fort Myers, FL, Page Field, RNAV (GPS) RWY 23, Amdt 1
Fort Myers, FL, Page Field, RNAV (GPS) RWY 31, Amdt 1
Fort Myers, FL, Page Field, VOR RWY 13, Amdt 1
Charlotte, NC, Charlotte/Douglas Intl, ILS OR LOC RWY 36C, ILS RWY 36C (CAT II), ILS RWY 36C (CAT III), Amdt 17
Hamilton, NY, Hamilton Muni, RNAV (GPS) RWY 17, Amdt 1
Hamilton, NY, Hamilton Muni, RNAV (GPS) RWY 35, Amdt 1
Hamilton, NY, Hamilton Muni, RNAV (GPS) Y RWY 17, Orig-A, CANCELLED
Hamilton, NY, Hamilton Muni, VOR–A, Amdt 4A, CANCELLED

Effective 10 October 2019

Heber Springs, AR, Heber Springs Muni, RNAV (GPS) RWY 6, Amdt 1
Heber Springs, AR, Heber Springs Muni, RNAV (GPS) RWY 24, Amdt 1
Fresno, CA, Fresno Yosemite Intl, ILS Y OR LOC Y RWY 29R, ILS Y RWY 29R SA CAT I, ILS Y RWY 29R CAT II, ILS Y RWY 29R CAT III, Amdt 39
Fresno, CA, Fresno Yosemite Intl, LOC Y RWY 11L, Amdt 3
Fresno, CA, Fresno Yosemite Intl, RNAV (GPS) RWY 11L, Amdt 2
Fresno, CA, Fresno Yosemite Intl, RNAV (GPS) RWY 11R, Amdt 3
Fresno, CA, Fresno Yosemite Intl, TACAN RWY 11L, Amdt 3
Fresno, CA, Fresno Yosemite Intl, TACAN RWY 29R, Amdt 3
Fresno, CA, Fresno Yosemite Intl, Takeoff Minimums and Obstacle DP, Amdt 9
Napa, CA, Napa County, NAPAA FOUR, Graphic DP
Kahului, HI, Kahului, VOR Y RWY 20, Amdt 1
Kahului, HI, Kahului, VOR Z OR TACAN RWY 20, Amdt 1
Boise, ID, Boise Air Terminal/Gowen Fld, RNAV (GPS) Y RWY 10L, Amdt 3B
Boise, ID, Boise Air Terminal/Gowen Fld, RNAV (RNP) Z RWY 10L, Amdt 1B
Mattoon/Charleston, IL, Coles County Memorial, ILS OR LOC RWY 29, Amdt 8
Michigan City, IN, Michigan City Muni-Phillips Field, RNAV (GPS) RWY 20, Amdt 1
Michigan City, IN, Michigan City Muni-Phillips Field, VOR–A, Amdt 6
Fort Leonard Wood, MO, Waynesville-St Robert Rgnl Forney Fld, ILS OR LOC RWY 15, Amdt 2A
Monroe, NC, Charlotte-Monroe Executive, RNAV (GPS) RWY 5, Amdt 2A
Minot, ND, Minot Intl, ILS OR LOC RWY 31, Amdt 10B
Minot, ND, Minot Intl, LOC BC RWY 13, Amdt 8B
Minot, ND, Minot Intl, RNAV (GPS) RWY 8, Orig-B
Oneonta, NY, Oneonta Muni, LOC RWY 24, Amdt 2C, CANCELLED
Cincinnati, OH, Cincinnati Muni Airport Lunken Field, RNAV (GPS) RWY 3R, Amdt 1A
Cincinnati, OH, Cincinnati Muni Airport Lunken Field, RNAV (GPS) RWY 21L, Amdt 1D
Cincinnati, OH, Cincinnati Muni Airport Lunken Field, RNAV (GPS) RWY 25, Amdt 1C
Dayton, OH, Dayton-Wright Brothers, LOC RWY 20, Amdt 1
Wilmington, OH, Wilmington Air Park, ILS OR LOC RWY 22R, ILS RWY 22R SA CAT I, ILS RWY 22R CAT II, ILS RWY 22R CAT III, Amdt 6
Somerset, PA, Somerset County, LOC RWY 25, Amdt 4D
Amarillo, TX, Rick Husband Amarillo Intl, VOR RWY 13, Orig-B
Amarillo, TX, Rick Husband Amarillo Intl, VOR RWY 22, Amdt 1A
Amarillo, TX, Rick Husband Amarillo Intl, VOR RWY 31, Orig-B
Angleton/Lake Jackson, TX, Texas Gulf Coast Rgnl, ILS OR LOC RWY 17, Amdt 7
Milwaukee, WI, Lawrence J Timmerman, RNAV (GPS) RWY 15L, Orig-D
Milwaukee, WI, Lawrence J Timmerman, RNAV (GPS) RWY 22R, Orig-E
Minocqua-Woodruff, WI, Lakeland/Noble F Lee Memorial Field, LOC RWY 36, Amdt 2
Minocqua-Woodruff, WI, Lakeland/Noble F Lee Memorial Field, NDB RWY 28, Amdt 12A, CANCELLED
Minocqua-Woodruff, WI, Lakeland/Noble F Lee Memorial Field, RNAV (GPS) RWY 18, Orig-B
Minocqua-Woodruff, WI, Lakeland/Noble F Lee Memorial Field, RNAV (GPS) RWY 28, Orig-C
Minocqua-Woodruff, WI, Lakeland/Noble F Lee Memorial Field, RNAV (GPS) RWY 36, Orig-C
Sturgeon Bay, WI, Door County Cherryland, RNAV (GPS) RWY 2, Amdt 1C
Sturgeon Bay, WI, Door County Cherryland, RNAV (GPS) RWY 10, Orig-B
Sturgeon Bay, WI, Door County Cherryland, RNAV (GPS) RWY 20, Amdt 1B
Sturgeon Bay, WI, Door County Cherryland, RNAV (GPS) RWY 28, Orig-B

[FR Doc. 2019–18981 Filed 9–6–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31270; Amdt. No. 3868]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or

changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective September 9, 2019. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 9, 2019.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001;
2. The FAA Air Traffic Organization Service Area in which the affected airport is located;
3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,
4. The National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, email *fedreg.legal@nara.gov* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29 Room 104, Oklahoma City, OK 73169. Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary.

This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on August 23, 2019.

Rick Domingo,

Executive Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97, (14 CFR part 97), is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV

SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
10–Oct–19	GA	Alma	Bacon County	9/0170	7/31/19	RNAV (GPS) RWY 15, Amdt 2A.
10–Oct–19	WI	West Bend	West Bend Muni	9/0179	7/31/19	VOR RWY 13, Amdt 5C.
10–Oct–19	WY	Fort Bridger	Fort Bridger	9/0803	7/31/19	RNAV (GPS) RWY 22, Amdt 1A.
10–Oct–19	WY	Fort Bridger	Fort Bridger	9/0804	7/31/19	VOR RWY 22, Amdt 2.
10–Oct–19	WI	La Crosse	La Crosse Rgnl	9/0992	7/31/19	ILS OR LOC RWY 18, Amdt 22.
10–Oct–19	OK	Holdenville	Holdenville Muni	9/1577	7/31/19	Takeoff Minimums and Obstacle DP, Orig.
10–Oct–19	IL	Decatur	Decatur	9/1758	8/1/19	VOR RWY 18, Orig-C.
10–Oct–19	IN	Elkhart	Elkhart Muni	9/1808	8/16/19	RNAV (GPS) RWY 27, Orig-B.
10–Oct–19	IA	Dubuque	Dubuque Rgnl	9/3736	7/31/19	ILS OR LOC RWY 36, Orig-D.
10–Oct–19	IA	Dubuque	Dubuque Rgnl	9/3737	7/31/19	LOC/DME BC RWY 13, Amdt 5C.
10–Oct–19	IA	Dubuque	Dubuque Rgnl	9/3738	7/31/19	RNAV (GPS) RWY 13, Orig.
10–Oct–19	IA	Dubuque	Dubuque Rgnl	9/3739	7/31/19	RNAV (GPS) RWY 18, Orig-A.
10–Oct–19	IA	Dubuque	Dubuque Rgnl	9/3740	7/31/19	RNAV (GPS) RWY 31, Orig.
10–Oct–19	IA	Dubuque	Dubuque Rgnl	9/3741	7/31/19	RNAV (GPS) RWY 36, Orig-A.
10–Oct–19	IA	Dubuque	Dubuque Rgnl	9/3742	7/31/19	VOR RWY 13, Amdt 10.
10–Oct–19	IA	Dubuque	Dubuque Rgnl	9/3743	7/31/19	VOR RWY 31, Amdt 12.
10–Oct–19	IA	Dubuque	Dubuque Rgnl	9/3744	7/31/19	VOR RWY 36, Amdt 6B.
10–Oct–19	VA	Norfolk	Norfolk Intl	9/3902	8/7/19	ILS OR LOC RWY 5, Amdt 26D.
10–Oct–19	VA	Norfolk	Norfolk Intl	9/3909	8/7/19	RNAV (GPS) Z RWY 5, Amdt 2.
10–Oct–19	WI	West Bend	West Bend Muni	9/4308	7/31/19	RNAV (GPS) RWY 24, Orig-A.
10–Oct–19	KS	Iola	Allen County	9/4362	7/31/19	RNAV (GPS) RWY 1, Amdt 1A.
10–Oct–19	KS	Iola	Allen County	9/4363	7/31/19	RNAV (GPS) RWY 19, Orig-A.
10–Oct–19	OH	Mansfield	Mansfield Lahm Rgnl	9/5193	8/12/19	ILS OR LOC RWY 32, Amdt 17B.
10–Oct–19	NC	Monroe	Charlotte-Monroe Executive.	9/5956	7/31/19	ILS OR LOC RWY 5, Amdt 2.
10–Oct–19	FL	Bonifay	Tri-County	9/6715	7/31/19	RNAV (GPS) RWY 19, Orig-A.
10–Oct–19	NY	Penn Yan	Penn Yan	9/7214	7/31/19	NDB RWY 28, Amdt 6D.
10–Oct–19	KS	Fort Leavenworth	Sherman AAF	9/7342	7/31/19	RNAV (GPS) RWY 34, Orig-A.
10–Oct–19	WA	Yakima	Yakima Air Terminal/ Mcallister Field.	9/7836	7/31/19	ILS OR LOC RWY 27, Amdt 1.
10–Oct–19	GA	Augusta	Augusta Rgnl At Bush Field.	9/8829	7/31/19	ILS OR LOC RWY 35, Amdt 28B.
10–Oct–19	OR	Salem	Mcnary Fld	9/9159	7/31/19	ILS OR LOC Z RWY 31, Amdt 31A.
10–Oct–19	OR	Salem	Mcnary Fld	9/9160	7/31/19	LOC Y RWY 31, Amdt 4.
10–Oct–19	OR	Salem	Mcnary Fld	9/9161	7/31/19	LOC BC RWY 13, Amdt 9.
10–Oct–19	FL	Plant City	Plant City	9/9169	7/31/19	VOR RWY 28, Amdt 3C.
10–Oct–19	OR	Salem	Mcnary Fld	9/9182	7/31/19	RNAV (GPS) RWY 31, Amdt 3B.

[FR Doc. 2019–18975 Filed 9–6–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31268; Amdt. No. 3866]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective September 9, 2019. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 9, 2019.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001;
2. The FAA Air Traffic Organization Service Area in which the affected airport is located;
3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,
4. The National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, email *fedreg.legal@nara.gov* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may

be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29 Room 104, Oklahoma City, OK 73169. Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary.

This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on August 9, 2019.

Rick Domingo,

Executive Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97, (14 CFR part 97), is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

* * * Effective Upon Publication

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
12–Sep–19 ...	LA	Monroe	Monroe Rgnl	9/6374	7/23/19	RNAV (GPS) RWY 32, Orig-B.

[FR Doc. 2019–18979 Filed 9–6–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31269; Amdt. No. 3867]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective September 9, 2019. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 9, 2019.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29, Room 104, Oklahoma City, OK 73169. Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C 553(d), good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on August 23, 2019.

Rick Domingo,

Executive Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 10 October 2019

Anchorage, AK, Ted Stevens Anchorage Intl, ILS RWY 15, Amdt 7
Anchorage, AK, Ted Stevens Anchorage Intl, ILS OR LOC RWY 7L, ILS RWY 7L (SA CAT I), ILS RWY 7L (SA CAT II), Amdt 4
Anchorage, AK, Ted Stevens Anchorage Intl, ILS OR LOC RWY 7R, ILS RWY 7R (SA CAT I), ILS RWY 7R (CAT II), ILS RWY 7R (CAT III), Amdt 4
Anchorage, AK, Ted Stevens Anchorage Intl, RNAV (GPS) RWY 7L, Amdt 3
Anchorage, AK, Ted Stevens Anchorage Intl, RNAV (GPS) RWY 15, Amdt 3
Anchorage, AK, Ted Stevens Anchorage Intl, RNAV (GPS) Y RWY 7R, Amdt 5
Anchorage, AK, Ted Stevens Anchorage Intl, Takeoff Minimums and Obstacle DP, Amdt 8
Eek, AK, Eek, RNAV (GPS) RWY 18, Amdt 1
Eek, AK, Eek, RNAV (GPS) RWY 36, Amdt 1
Eek, AK, Eek, Takeoff Minimums and Obstacle DP, Amdt 1
Shungnak, AK, Shungnak, RNAV (GPS) RWY 10, Amdt 3
Shungnak, AK, Shungnak, RNAV (GPS) RWY 28, Amdt 3
Shungnak, AK, Shungnak, Takeoff Minimums and Obstacle DP, Amdt 1
Fort Huachuca Sierra Vista, AZ, Sierra Vista Muni-Libby AAF, ILS OR LOC RWY 26, Amdt 4C
Fort Huachuca Sierra Vista, AZ, Sierra Vista Muni-Libby AAF, RADAR–1, Orig-B
Fort Huachuca Sierra Vista, AZ, Sierra Vista Muni-Libby AAF, RNAV (GPS) RWY 8, Amdt 1D
Fort Huachuca Sierra Vista, AZ, Sierra Vista Muni-Libby AAF, RNAV (GPS) RWY 26, Orig-A
Napa, CA, Napa County, ILS OR LOC Z RWY 1L, Amdt 1
Napa, CA, Napa County, LOC Y RWY 36L, Orig, CANCELLED
Napa, CA, Napa County, RNAV (GPS) RWY 6, Amdt 1
Napa, CA, Napa County, RNAV (GPS) X RWY 36L, Orig, CANCELLED
Napa, CA, Napa County, RNAV (GPS) Y RWY 1L, Amdt 3
Napa, CA, Napa County, VOR RWY 6, Amdt 14
Pohnpei Island, F.S.M., FM, Pohnpei International, NDB/DME RWY 9, Amdt 4A, CANCELLED
Pohnpei Island, F.S.M., FM, Pohnpei International, NDB OR GPS–B, Amdt 3A, CANCELLED
Pohnpei Island, F.S.M., FM, Pohnpei International, NDB OR GPS–C, Amdt 3A, CANCELLED
Scott City, KS, Scott City Muni, RNAV (GPS) RWY 35, Orig-A
Bardstown, KY, Samuels Field, RNAV (GPS) RWY 3, Amdt 1A
Bardstown, KY, Samuels Field, RNAV (GPS) RWY 21, Amdt 1A
New Iberia, LA, Acadiana Rgnl, ILS OR LOC RWY 35, Amdt 2
Detroit, MI, Detroit Metropolitan Wayne County, ILS PRM Y RWY 4L (CLOSE PARALLEL), Amdt 1B
Detroit, MI, Detroit Metropolitan Wayne County, ILS Y RWY 4L, Amdt 1B
Detroit, MI, Detroit Metropolitan Wayne County, ILS Z OR LOC RWY 4L, ILS Z RWY 4L (CAT II), ILS Z RWY 4L (CAT III), Amdt 4B
Detroit, MI, Detroit Metropolitan Wayne County, RNAV (GPS) PRM Y RWY 4L (CLOSE PARALLEL), Orig-A
Detroit, MI, Detroit Metropolitan Wayne County, RNAV (GPS) Y RWY 4L, Orig-A
Detroit, MI, Detroit Metropolitan Wayne County, RNAV (GPS) Z RWY 4L, Orig-B
Detroit, MI, Detroit Metropolitan Wayne County, RNAV (RNP) U RWY 4L, Orig-A
Detroit, MI, Detroit Metropolitan Wayne County, RNAV (RNP) X RWY 4L, Orig-A
Mesquite, NV, Mesquite, RNAV (GPS) RWY 2, Amdt 1
Mesquite, NV, Mesquite, RNAV (GPS) Y RWY 2, Orig, CANCELLED
Hamilton, NY, Hamilton Muni, Takeoff Minimums and Obstacle DP, Amdt 3
Athens, TX, Athens Muni, RNAV (GPS) RWY 18, Amdt 1
Athens, TX, Athens Muni, RNAV (GPS) RWY 36, Amdt 1
Athens, TX, Athens Muni, Takeoff Minimums and Obstacle DP, Orig-A
Charleston, WV, Yeager, Takeoff Minimums and Obstacle DP, Amdt 10
Milton, WV, Ona Airpark, VOR–A, Amdt 3

RESCINDED: On August 14, 2019 (84 FR 40234), the FAA published an Amendment in Docket No. 31265, Amdt No. 3863, to Part 97 of the Federal Aviation Regulations under section 97.29. The following entry for Norfolk, VA, effective October 10, 2019, is hereby rescinded in its entirety:

Norfolk, VA, Hampton Roads Executive, ILS OR LOC RWY 10, Orig

[FR Doc. 2019–18977 Filed 9–6–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is amending the Cuban Assets Control Regulations to further implement portions of the President's foreign policy toward Cuba. This rule amends and, in one case, removes certain authorizations for remittances to Cuba, and the rule also amends the general license relating to ''U-turn'' financial transactions to eliminate the authorization to process such transactions and instead only allow the rejection of such transactions.

DATES: *Effective:* October 9, 2019.

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury's Office of Foreign Assets Control: Assistant Director for Licensing, 202–622–2480, Assistant Director for Regulatory Affairs, 202–622–4855, or Assistant Director for Sanctions Compliance & Evaluation, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

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

Background

The Department of the Treasury issued the Cuban Assets Control Regulations, 31 CFR part 515 (the ''Regulations''), on July 8, 1963, under the Trading With the Enemy Act (50 U.S.C. 4301–41). OFAC has amended the Regulations on numerous occasions. In particular, on November 9, 2017, OFAC, the Department of Commerce's Bureau of Industry and Security (Commerce), and the Department of State (State) took coordinated actions to implement National Security Presidential Memorandum-5, ''Strengthening the Policy of the United States Toward Cuba,'' signed by the President on June 16, 2017 (NSPM–5). Most recently, effective June 5, 2019, OFAC further restricted non-family

travel by removing an authorization for group people-to-people educational travel (84 FR 25992). OFAC took the June 5, 2019 action in order to further implement NSPM–5 and the President's foreign policy toward Cuba, as announced in an April 17, 2019 foreign policy address (April 2019 Address).

The April 2019 Address also announced forthcoming regulatory changes to impose new limits on remittances and to end the use of ''U-turn'' transactions. Today, OFAC, in consultation with State, is taking additional action to implement those announced changes, as set forth in more detail below. This rule provides for a 30-day implementation period before it is effective in order to allow for technical implementation of these additional restrictions.

Remittances

In accordance with the April 2019 Address, OFAC is amending several authorizations related to remittances set forth in § 515.570. OFAC is amending § 515.570(a), which authorizes family remittances, to place a cap of $1,000 as the maximum amount that one remitter can send per quarter to one Cuban national as a family remittance. Section 515.570(a) provides that the recipient of family remittances may not be a prohibited official of the Government of Cuba, as defined in § 515.337, or a prohibited member of the Cuban Communist Party, as defined in § 515.338. OFAC is now amending § 515.570(a) to prohibit remitters from sending remittances to close family members, as defined in § 515.339, of prohibited officials of the Government of Cuba or prohibited members of the Cuban Communist Party. OFAC also is making a conforming change in § 515.570(f), which authorizes certain remittances from blocked sources.

In further accordance with the policy to limit remittances, OFAC is eliminating the authorization in § 515.570(b) for donative remittances. In light of the removal of this authorization, OFAC also is making a conforming change by removing and reserving the unblocking authorization in paragraph (h) for previously blocked remittances that would have been authorized by paragraph (b). At the same time, in light of NSPM–5's policy to encourage the growth of a Cuban private sector independent of government control, OFAC is amending § 515.570(g), which authorizes unlimited remittances to certain individuals and independent non-governmental organizations in Cuba, to add a provision to authorize unlimited remittances to certain additional self-employed individuals. OFAC is adding a definition for qualifying self-employed individuals in § 515.340.

Ending ''U-turn'' Transactions

OFAC previously authorized, pursuant to § 515.584(d), any banking institution, as defined in § 515.314, that is a person subject to U.S. jurisdiction, to process funds transfers originating and terminating outside the United States, provided that neither the originator nor the beneficiary is a person subject to U.S. jurisdiction. The April 2019 Address announced that the Department of the Treasury would implement changes to eliminate the authorization for banking institutions subject to U.S. jurisdiction to process ''U-turn'' transactions found in § 515.584(d). In accordance with that policy, OFAC is amending § 515.584(d) which previously authorized such transactions, to remove the authorization to process such transactions and to replace it with an authorization to reject such transactions. OFAC is making conforming changes by removing references to § 515.584(d) in the Note to § 515.209 and § 515.584(e).

Public Participation

Because the amendments of the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of 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. As 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'') and § 515.572 of this part. Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information are covered by the Office of Management and Budget under control numbers 1505–0164, 1505–0167, and 1505–0168. 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 515

Administrative practice and procedure, Banking, Blocking of assets, Cuba, Financial transactions, Remittances, Reporting and recordkeeping requirements, Travel restrictions, U-turn transactions.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control amends 31 CFR part 515 as set forth below:

PART 515—CUBAN ASSETS CONTROL REGULATIONS

■ 1. The authority citation for part 515 continues to read as follows:

Authority: 22 U.S.C. 2370(a), 6001–6010, 7201–7211; 31 U.S.C. 321(b); 50 U.S.C. 4301–4341; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104–114, 110 Stat. 785 (22 U.S.C. 6021–6091); Pub. L. 105–277, 112 Stat. 2681; Pub. L. 111–8, 123 Stat. 524; Pub. L. 111–117, 123 Stat. 3034; E.O. 9193, 7 FR 5205, 3 CFR, 1938–1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943–1948 Comp., p. 748; Proc. 3447, 27 FR 1085, 3 CFR, 1959–1963 Comp., p. 157; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614.

Subpart B—Prohibitions

§ 515.209 [Amended]

■ 2. In the Note to § 515.209, remove the text ''§ 515.584(d) relating to funds transfers or''.

Subpart C—Definitions

■ 3. Add § 515.340 to read as follows:

§ 515.340 Self-employed individual.

The term *self-employed individual* means a Cuban national who is one or more of the following:

(a) An owner or employee of a small private business or a sole proprietorship, including restaurants (*paladares*), taxis, and bed-and-breakfasts (*casas particulares*);

(b) An independent contractor or consultant;

(c) A small farmer who owns his or her own land; or

(d) A small usufruct farmer who cultivates state-owned land to sell products on the open market.

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

■ 4. Amend § 515.570 by:

■ a. Redesignating paragraphs (a)(1) through (3) as paragraphs (a)(2) through (4);

■ b. Adding new paragraph (a)(1);

■ c. Revising newly redesignated paragraph (a)(3);

■ d. Removing and reserving paragraph (b);

■ e. Revising paragraphs (f) introductory text and (g)(3); and

■ f. Removing and reserving paragraph (h).

The revisions and additions read as follows:

§ 515.570 Remittances.

(a) * * *

(1) The remitter's total remittances pursuant to paragraph (a) of this section to any one Cuban national do not exceed $1,000 in any consecutive three-month period;

* * * * *

(3) The recipient is not a prohibited official of the Government of Cuba, as defined in § 515.337, a prohibited member of the Cuban Communist Party, as defined in § 515.338, a close relative, as defined in § 515.339, of a prohibited official of the Government of Cuba, or a close relative of a prohibited member of the Cuban Communist Party; and

* * * * *

(f) *Certain remittances from blocked sources authorized.* Provided the recipient is not a prohibited official of the Government of Cuba, as defined in § 515.337, a prohibited member of the Cuban Communist Party, as defined in § 515.338, a close relative, as defined in § 515.339, of a prohibited official of the Government of Cuba, or a close relative of a prohibited member of the Cuban Communist Party, certain remittances from blocked sources are authorized as follows:

* * * * *

(g) * * *

(3) To support the development of private businesses, and operation of economic activity in the non-state sector by self-employed individuals, as defined in § 515.340.

* * * * *

■ 5. Amend § 515.584 as follows:

■ a. Revise paragraph (d); and

■ b. In the second sentence of paragraph (e), remove the text ''paragraph (d) of this section, § 515.562(b),'' and add the text ''§ 515.562(b)'' in its place.

The revision reads as follows:

§ 515.584 Certain financial transactions involving Cuba.

* * * * *

(d) *Funds transfers.* Any banking institution, as defined in § 515.314, that is a person subject to U.S. jurisdiction is authorized to reject funds transfers originating and terminating outside the United States, provided that neither the originator nor the beneficiary is a person subject to U.S. jurisdiction.

* * * * *

Dated: September 4, 2019.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2019–19411 Filed 9–6–19; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0774]

RIN 1625–AA00

Safety Zone, R/V POLARCUS ALIMA, Cook Inlet, Homer, Alaska

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 100-yard radius surrounding the research vessel POLARCUS ALIMA. The safety zone is needed to protect the vessel and members of the public anticipated to exercise their First Amendment right to protest the vessel's activity. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Western Alaska.

DATES: This rule is effective from September 9, 2019 through September 11, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0774 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Commander Justin Jacobs, Chief of Prevention, Sector Anchorage, U.S. Coast Guard: telephone 907–428–4149, email *Justin.W.Jacobs@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On September 3, 2019, Hillcorp Alaska, LLC, notified the Coast Guard Sector Anchorage that it would be conducting seismic testing in Cook Inlet, near Kachemak Bay, via the research vessel POLARCUS ALIMNA from September 9–11, 2019. Hillcorp also informed the Coast Guard that it anticipates public protest activity around the vessel.

The Coast Guard is issuing this rule without prior notice and opportunity to comment pursuant to authority under section 4(a), of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. Notice and comment procedures are impractical in this situation because there is not enough time for those procedures before the planned vessel movement, and because immediate action is needed to respond to the potential safety hazards associated with the arrival and departure of the research vessel POLARCUS ALIMA. It is impracticable to publish an NPRM because we must establish this safety zone by September 9, 2019, and the Coast Guard was informed of the vessel movement on September 3, 2019. For the same reasons, the Coast Guard is making this rule effective less than thirty days after publication. Normally, the Administrative Procedure Act (APA) (5 U.S.C. 553(d)) requires an agency to publish a rule at least thirty days before the effective date of the rule. However, the agency is not required to delay the effective date if the agency finds good cause for doing so (5 U.S.C. 553(d)(3)). For this rule, the Coast Guard finds good cause to not delaying the effective date of this rule. Delaying the effective date of this rule is impracticable because the rule must be in place in time for the planned vessel movement on September 9, 2019, and the Coast Guard was informed about the vessel movement on September 3, 2019.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Western Alaska (COTP) has determined that potential safety hazards associated with the activity of the research vessel POLARCUS ALIMA in Cook Inlet, near Kachemak Bay, starting September 9, 2019, through September 11, 2019, will be a safety concern for anyone within a 100-yard radius of the vessel while at the pier and underway. This rule is needed to protect the vessel, public, and the marine environment within the safety zone while the vessel transits the area.

IV. Discussion of the Rule

The COTP establishes a safety zone from September 9, 2019 through September 11, 2019. The safety zone will cover all navigable waters within 100 yards of the research vessel POLARCUS ALIMA while in the COTP zone. The duration of the zone is intended to protect the vessel, public, and the marine environment within the safety zone while the vessel is transiting the area. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and timing of the safety zone. Vessel traffic would be able to safely transit around the safety zone, which would impact a small roving area in Cook Inlet for 3 days. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the safety zone and location of the research vessel POLARCUS ALIMA, and the rule would allow vessels to seek permission to enter or transit through the safety zone.

B. Impact on Small Entities

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

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

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 rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only 3 days that would prohibit entry within 100 yards of the vessel while it is in the COTP zone. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5;

Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T17–0774 to read as follows:

§ 165.T17–0774 Safety Zone, R/V POLARCUS ALIMA, Cook Inlet, Homer, AK.

(a) *Regulated area.* The following area is specified as a safety zone: All navigable waters within 100 yards of the research vessel POLARCUS ALIMA while in the Captain of the Port Zone for Western Alaska from September 9, 2019, through September 11, 2019.

(b) *Regulations.* In accordance with the general regulations in this part, the safety zone shall be closed to all persons and vessels unless authorized by the Captain of the Port.

(c) *Authorization.* All persons or vessels who desire to enter the designated safety zone created in this section while it is enforced must obtain permission from the on-scene patrol craft on VHF Ch 9.

(d) *Enforcement period.* This section will be enforced from September 9, 2019, through September 11, 2019.

Dated: September 5, 2019.

Sean C. MacKenzie,

Captain of the Port Western Alaska, U.S. Coast Guard.

[FR Doc. 2019–19548 Filed 9–6–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2018–0070; FRL–9998–57]

C_{10}-C_{16} Alkylbenzene Sulfonates; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of C_{10}-C_{16} branched and linear alkylbenzene sulfonates, including benzenesulfonic acid, dodecyl (CAS Reg, No. 27176–87–0) and benzenesulfonic acid, dodecyl-, sodium salt (CAS Reg. No. 25155–30–0), when used as an active or inert ingredient in antimicrobial pesticide formulations applied to food-contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment and utensils at a maximum concentration not to exceed 700 parts per million (ppm). Exponent, Inc., on behalf of Ecolab, Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance.

DATES: This regulation is effective September 9, 2019. Objections and requests for hearings must be received on or before November 8, 2019 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0070, 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.*

FOR FURTHER INFORMATION CONTACT: Anita Pease, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 308–6411; email address: *ADFRNotices@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 an agricultural producer, food manufacturer, or pesticide manufacturer. 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:

- Crop production (NAICS code 111), *e.g.,* agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), *e.g.,* cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), *e.g.,* agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), *e.g.,* agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2018–0070 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before August 4, 2019. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2018–0070, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Exemption

In the **Federal Register** of April 11, 2018 (83 FR 15528) (FRL–9975–57), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 7F8626) by Exponent, Inc., 1150 Connecticut Avenue NW, Suite 1100, Washington, DC 20036 on behalf of Ecolab, Inc., 1 Ecolab Place, St. Paul, MN 55102. The petition requested that 40 CFR 180.940(a) be amended by establishing an exemption from the requirement of a tolerance for residues of C_{10}-C_{16} branched and linear alkylbenzene sulfonates when used as an active ingredient in antimicrobial pesticide formulations applied to food-contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment, and utensils at a maximum end use concentration not to exceed 700 ppm. That document referenced a summary of the petition prepared by Exponent, Inc., on behalf of Ecolab, Inc., the registrant/petitioner, which is available in the docket, *http://www.regulations.gov.* Comments were submitted to the docket in response to the notice of filing, one of which was relevant to this rulemaking. The Agency's response is located in Unit IV.B. below.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . . .''

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for C_{10}-C_{16} alkylbenzene sulfonates including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with C_{10}-C_{16} alkylbenzene sulfonates follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Alkylbenzene sulfonates (ABS) are compounds that consist of a sulfonated aromatic ring with an alkyl chain of varying lengths; C_{10}–C_{16} refers to the number of carbons in the alkyl chain. These compounds may exist in either branched or linear form, depending upon where the aromatic ring is attached to the chain of carbons; the linear form is more common. The most common linear alkylbenzene sulfonate compounds used in pesticide formulations are (1) benzenesulfonic acid, dodecyl (CAS Reg. No. 27176–87–0) and (2) benzenesulfonic acid, dodecyl-, sodium salt (CAS Reg. No. 25155–30–0), both of which are currently approved for use as active and inert ingredients in registered pesticide products. Due to the similarity of production methods, product mixtures, and commercial use sites, as well as the similar or identical physical, chemical, and toxicological properties of ABS compounds, EPA's dietary risk assessment covers all registered ABS compounds, including both branched and linear forms and those compounds of chain lengths C_{10}-C_{16}; the toxicity data indicate that the toxicological profile is the same for the branched and linear form and that the length of the carbon alkyl chain does not change the toxicity of the ABS compound.

There are several repeat-dose oral toxicity studies performed with linear alkybenzene sulfonates, ranging from a 28-day study in monkeys to 9-month studies conducted with rats and mice. There are also repeat-dose dermal (guinea pigs, rabbits, and rats) and inhalation studies (dogs and monkeys). Collectively, these animal data suggest that the liver, kidney, and caecum (for oral studies) are the major target organs for toxicity. The liver and kidney effects were dose- and duration-related in that mild effects (organ weight changes and serum enzyme/clinical chemistry changes indicative of mild organ effects) were seen at lower doses but increased in severity with both dose and time.

Several developmental toxicity studies via the oral and dermal routes have been performed with ABS in rats, mice and rabbits; there were also several subcutaneous injection developmental studies reported in mice. Some developmental effects (including some terata) were observed at high doses at which maternal toxicity was also observed; however, the available information does not suggest any qualitative or quantitative susceptibility differences between pups and pregnant animals. In reproduction toxicity tests, no reproductive toxicity was observed at doses up to and including 250 mg/kg/day.

Although data are limited, there is no evidence for carcinogenicity of ABS. ABS is also negative in results of mutagenicity testing.

Specific information on the studies received and the nature of the adverse effects caused by ABS as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document ''Draft Risk Assessment for Alkylbenzene Sulfonates (ABS) to Support Registration Review, and Petition for a Tolerance Exemption'' in docket ID number EPA–HQ–OPP–2018–0070.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the dose in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe

exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.* A summary of the toxicological endpoints for ABS used for human risk assessment is shown in Table 1. The NOAEL of 50 mg/kg/day was chosen based on the result of multiple animal studies including the three co-critical studies listed in Table 1.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS AND POINTS OF DEPARTURE FOR ABS FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure scenario	Dose used in risk assessment, UF	Special FQPA SF, target MOE	Study and toxicological effects
Acute dietary (All populations)			
	No endpoint was selected. No effects are attributable to a single dose in animal studies.		
Chronic dietary (All populations) Systemic/Reproductive Oral NOAEL = 50 mg/kg/day.	UF = 100x	FQPA SF = 1x	6-month Oral Toxicity—Rat.
	Chronic RfD = 0.5 mg/kg/day.	cPAD = cRfD/FQPA SF = 0.5 mg/kg/day.	NOAEL = 40 mg/kg/day (0.07%) and. LOAEL = 114 mg/kg/day (0.2%) based on increased caecum weight and slight kidney damage in a 6-month rat dietary study (Yoneyama *et al.* 1972 Ann. Rep. Tokyo Metrop. Res. Lab. Public Health 24:409–440). Developmental Toxicity—Rat Systemic/Reproductive. NOAEL = 50 mg/kg/day and LOAEL = 250 mg/kg/day based on decreased Day 21 female pup body weight (MRID 43498416-Bueler, E. *et al.* 1971. Tox Appl. Pharmacol. 18:83–91). 9-month Drinking Water Study. NOAEL = 85 mg/kg/day and LOAEL = 145 mg/kg/day from 9 month drinking water rat study based on decreased body weight gain, and serum/biochemical and enzymatic changes in the liver and kidney. (Yoneyama *et al.* 1976 Ann. Rep. Tokyo Metrop. Res. Lab. Public Health 27(2): 105–112).
Short-Term Incidental Oral (1–30 days).	Oral NOAEL = 50 mg/kg/day.	Residential LOC for MOE = 100.	6-month Oral Toxicity—Rat. NOAEL = 40 mg/kg/day (0.07%) and LOAEL = 114 mg/kg/day (0.2%) based on increased caecum weight and slight kidney damage in a 6-month rat dietary study (Yoneyama *et al.* 1972 Ann. Rep. Tokyo Metrop. Res. Lab. Public Health 24:409–440).
Short-, Intermediate and Long-Term Inhalation (1 to 30 days, 1–6 months, >6 months).	UF = 100x	Residential LOC for MOE = 100.	
		Occupational LOC for MOE = 100.	Developmental Toxicity—Rat Systemic/Reproductive. NOAEL = 50 mg/kg/day and LOAEL = 250 mg/kg/day based on decreased Day 21 female pup body weight (Buehler, E. *et al.* 1971. Tox Appl. Pharmacol. 18:83–91). 9-month Drinking Water Study. NOAEL = 85 mg/kg/day and LOAEL = 145 mg/kg/day from 9 month drinking water rat study based on decreased body weight gain, and serum/biochemical and enzymatic changes in the liver and kidney. (Yoneyama *et al.* 1976 Ann. Rep. Tokyo Metrop. Res. Lab. Public Health 27(2): 105–112).
Dermal	No dermal endpoint identified.		
Cancer (oral, dermal, inhalation).	No evidence of carcinogenicity in reported published literature studies in rats		

FQPA SF = Food Quality Protection Act Safety Factor. UF = Uncertainty Factor (comprised of 10x for extrapolation from animal to human (interspecies) and 10x for potential variation in sensitivity among members of the human population (intraspecies). cRfD = Chronic Reference Dose.

cPAD = Chronic Population Adjusted Dose. NOAEL = No Observable Adverse Effect Level.

LOAEL = Lowest Observable Adverse Effect Level. MOE = Margin of Exposure. LOC = Level of Concern.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to ABS, EPA considered all dietary exposure from registered pesticide uses as well as the petitioned-for exemption. Exposure of food to products containing ABS compounds may occur from various registered product use sites including: (1) Indirect food contact from residential food preparation areas, (2) indirect food contact from commercial food preparation areas such as public eating places, dairy-processing equipment, and food-processing equipment and utensils (residues in or on food permitted by 40 CFR 180.940(a)), (3) direct food uses as fruit and vegetable washes (residues in or on food permitted by 21 CFR 173.315 and 173.405), and (4) inert ingredients used in pesticide formulations as a surfactant, emulsifier, or related adjuvants of surfactants in products applied to growing agricultural crops and raw agricultural commodities after harvest (residues in or on food permitted by 40 CFR 180.910) and to animals (residues in or on food permitted by 40 CFR 180.930). EPA assessed dietary exposures from ABS in food as follows:

i. *Acute exposure.* An acute dietary risk assessment for ABS has not been conducted because no adverse effects could be attributed to a single administered oral dose.

ii. *Chronic exposure.* In developing the chronic dietary risk assessment, EPA considered estimates from four models used to evaluate risk from the various pathways of exposure to residues of ABS: the Commercial Tier 1A model for dietary exposure from use of ABS in commercial settings, including the proposed use of ABS at a limit of 700 ppm; the Indirect Dietary Residential Exposure Assessment Model (IDREAM) for dietary exposures from residential uses; Dietary Exposure Evaluation Model (DEEM) for direct applications to food via fruit and vegetables washes; and the inert Dietary Exposure Evaluation Model (iDEEM) to account for the inert uses of branched and linear alkylbenzene sulfonates in agricultural formulations. Each model run of these exposure scenarios resulted in risk levels below the Agency's levels of concern. For purposes of the chronic dietary assessment, the Agency considered the likelihood of co-occurrence of exposures from these various use patterns. EPA determined that it was appropriate to aggregate exposure from use of ABS in commercial food preparation areas and as an inert in pesticide formulations applied to raw agricultural commodities or animals due to potential co-occurrence. The Agency concluded that it was unlikely that an individual food commodity would come into contact with and retain residues from both residential and commercial areas and thus, utilized the exposures from use in commercial settings, which were higher than residues from residential settings. In addition, EPA concluded that residues from fruit and vegetable washes were likely to be washed away and should not be included in the co-occurrence dietary assessment. Finally, the Agency included exposures from inert uses of ABS in the dietary assessment based on the likelihood that crops treated with pesticide formulations containing ABS as an inert may not be washed prior to picking up residues from use of ABS in commercial food preparation places.

For more specific information on the dietary exposure assessment for ABS can be found in the document ''Draft Risk Assessment for Alkylbenzene Sulfonates (ABS) to Support Registration Review and Petition for a Tolerance Exemption,'' available in docket ID number EPA–HQ–2018–0070 at *http://www.regulations.gov.*

iii. *Cancer.* No evidence of carcinogenicity is reported published literature studies in rats. Therefore, a cancer dietary exposure assessment was not performed.

2. Dietary exposure from drinking water. Exposure to ABS compounds in drinking water may occur from use in registered pesticide formulations containing ABS as inert ingredient. A conservative drinking water concentration value of 100 ppb based on screening-level modeling was used to assess the contribution to drinking water for the chronic dietary risk assessments for ABS compounds. This was directly entered into the dietary exposure model.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables). Residential (non-dietary) exposure may occur as follows:

- *Residential handlers:* There is a potential for short-term and intermediate-term residential handler inhalation exposure from use of products containing ABS compounds as sanitizers in or on food-contact surfaces and as turf and garden products.
- *Post-application exposures:* There is a potential for post-application exposures from products containing ABS compounds used on indoor surfaces, carpets, food-contact surfaces, lawns and turf, and materials preservatives. The durations and routes of exposure that were evaluated include short-term inhalation exposure and short-term incidental oral exposure to children.
- *Co-occurring exposures:* For purposes of the aggregate risk assessment, EPA aggregated residential handler inhalation exposure from mopping and trigger-pump spray applications and used hand-to-mouth exposure from the turf use for post-application exposures to children, as it was the highest exposure use pattern.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found ABS to share a common mechanism of toxicity with any other substances, and ABS does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that ABS does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemical, see EPA's website at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408 of FFDCA provides that EPA shall apply an additional (10X) tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional FQPA SF value based on the use of traditional uncertainty factors (UFs) and/or FQPA SFs, as appropriate.

2. *Prenatal and postnatal sensitivity.* There was no evidence of increased

sensitivity to infants and children due to pre- and post-natal exposure to ABS. The data submitted to the Agency, as well as those from published literature, demonstrate no increased susceptibility in rats, rabbits, or mice to in utero and/or early postnatal exposure to ABS. In the prenatal developmental toxicity studies in rats, rabbits, and mice and in the 2-generations reproduction study in rats, developmental effects in the fetuses or neonates occurred at or above doses that caused maternal or parental toxicity.

3. *Conclusion.* EPA has determined that reliable data show that it would be safe for infants and children to reduce the FQPA SF to 1x. That decision is based on the following findings:

i. The toxicity database for ABS is complete.

ii. There is no indication that ABS is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. Although there is evidence of developmental toxicity in some studies, there is no evidence of increased susceptibility. Moreover, the NOAELs and LOAELs are well-defined, and the endpoints selected for regulatory purposes are protective of those effects.

iv. There are no residual uncertainties identified in the exposure databases. The screening-level dietary assessment and the residential exposure assessment are conservative and not likely to underestimate exposures.

E. Aggregate Risks and Determination of Safety

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, ABS is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for co-occurring dietary chronic exposure, EPA has concluded that chronic exposure to ABS from food and water will be 23% of the cPAD for the highest exposed subpopulation (children 1 to 2) and 8.8% of the cPAD for adults. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of ABS is not expected.

3. *Short-term risk.* Short-term aggregate risks were assessed for children and adults that could be exposed to ABS and concluded that the combined food, water and residential non-dietary exposures result in aggregate short term MOEs of 670 at 5% inert and 250 at 25% inert for adults, and 310 for children (1 to 2 years old). EPA's level of concern for ABS is an MOE of 100 or below; therefore, ABS is not expected to pose a short-term risk.

4. *Intermediate-term risk.* An intermediate-term (1 to 6 months) aggregate assessment was performed for adults that could be exposed to ABS. Since possible intermediate term inhalation exposures are similar to the short-term and the PODs are the same, the aggregate intermediate term MOEs are 670 at 5% inert and 250 at 25% inert which exceed the target MOE of 100.

5. *Aggregate cancer risk for U.S. population.* Based on a lack of evidence of carcinogenicity for ABS in the database, ABS is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on its risk assessments, EPA concludes that there is a reasonable certainty of no harm that will result to the general population, or to infants and children, from aggregate exposure to ABS residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

An analytical method for food is not needed. Food contact sanitizers are typically regulated by the State health departments to ensure that the food industry is using products in compliance with the regulations in 40 CFR 180.940. The end-use solution that is applied to the food contact surface is analyzed; the food items that may come into contact with treated surface are not analyzed. An analytical method is available to analyze the use dilution that is applied to food contact surfaces. Alkylbenzene sulfonates are a class of *anionic surfactants.* An ''Anionic Content by Surfactant Electrode Method'' is used to determine the concentration or percent of anionic surfactant in the use solution. The method may be requested from Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Road, Ft. Meade, MD 20755–5350; telephone no: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. Response to Comments

EPA received a comment expressing concern for the use of pesticides on food that will end up in water. No supporting information was provided; therefore, it is unclear whether the issue raised is related to the safety of consumers of food containing residues of ABS or to the environmental effects of pesticides in water. Nonetheless, EPA notes that section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA) authorizes EPA to set tolerances for residues of pesticide chemicals when it determines that the tolerance meets the safety standard imposed by that statute. After considering the available data, including the potential for ABS residues to end up in drinking water, EPA has made that determination for the ABS tolerances established by this final rule.

V. Conclusion

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.940(a) for residues of alkylbenzene sulfonates in branched and linear form of chain lengths C_{10}-C_{16}, when used as an inert or an active ingredient in antimicrobial pesticide formulations applied to food-contact surfaces in public-eating places, dairy-processing equipment, and food-processing equipment and utensils at a maximum end-use concentration not to exceed 700 ppm. As written, this exemption covers all ABS compounds of branched or linear form with the appropriate chain length; however, the Agency is expressly clarifying that this exemption also includes the two substances that are already registered and for which tolerance exemptions have already been established—benzenesulfonic acid, dodecyl and benzenesulfonic acid, dodecyl-, sodium salt. As this new exemption supersedes the more limited exemptions already established for those two substances, EPA is removing those exemptions from § 180.940(b) and (c) as no longer necessary.

VI. Statutory and Executive Order Reviews

This action establishes an exemption from the requirement of a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), nor is it considered a regulatory action under Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82

FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 29, 2019.

Anita Pease,

Director, Antimicrobials Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.940:

■ a. Add alphabetically to the table in paragraph (a) the entry ''Alkylbenzene sulfonates (branched and linear) of chain lengths C_{10}-C_{16}, including benzenesulfonic acid, dodecyl and benzenesulfonic acid, dodecyl-, sodium salt''.

■ b. Remove from the table in paragraph (b) the entry for ''Benzenesulfonic acid, dodecyl-''.

■ c. Remove from the table in paragraph (c) the entries for ''Benzenesulfonic acid, dodecyl-'' and ''Benzenesulfonic acid, dodecyl-, sodium salt''.

The addition reads as follows:

§ 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions).

* * * * *

(a) * * *

Pesticide chemical	CAS Reg. No.	Limits
*	*	*
Alkylbenzene sulfonates (branched and linear) of chain lengths C_{10}-C_{16}, including benzenesulfonic acid, dodecyl and benzenesulfonic acid, dodecyl-, sodium salt.	27176–87–0 25155–30–0	When ready for use, the end-use concentration is not to exceed 700 ppm.
*	*	*

* * * * *

[FR Doc. 2019–19397 Filed 9–6–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2018–0143; FRL–9998–21]

Abamectin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of abamectin in or on multiple commodities which are identified and discussed later in this document. Interregional Research Project No. 4 (IR–4) and Syngenta Crop Protection, LLC requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective September 9, 2019. Objections and requests for hearings must be received on or before November 8, 2019, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0143, 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*.

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number:

(703) 305–7090; email address: *RDFRNotices@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 an agricultural producer, food manufacturer, or pesticide manufacturer. 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:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl*.

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2018–0143 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before November 8, 2019. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2018–0143, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html*.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets*.

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of July 24, 2018 (83 FR 34968) (FRL–9980–31), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of pesticide petitions by IR–4, IR–4 Project Headquarters, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540 (PP 8E8664) and Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419–8300 (PP 7F8642). The petitions requested that 40 CFR part 180 be amended by establishing tolerances for residues of the abamectin, in or on edible podded legume vegetables subgroup 6A at 0.03 parts per million (ppm), succulent shelled pea and bean subgroup 6B at 0.005 ppm, dried shelled pea and bean (except soybean) subgroup 6C at 0.005 ppm (PP 7F8642) and arugula at 0.10 ppm, carrot, roots at 0.03 ppm, celtuce at 0.10 ppm, fennel, florence at 0.10 ppm, garden cress at 0.10 ppm, leaf petiole vegetable subgroup 22B at 0.10 ppm, leafy greens subgroup 4–16A at 0.10 ppm, tropical and subtropical, small fruit, inedible peel, subgroup 24A at 0.01 ppm, and upland cress at 0.10 ppm (PP 8E8664). The petition 8E8664 also proposed to remove the established tolerances for lychee at 0.01 ppm and vegetable, leafy, except *brassica,* group 4 at 0.10 ppm. That document referenced a summary of the petitions prepared by Syngenta, the registrant, which is available in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has modified the level at which some of the tolerances are being established as well as some of the commodity definitions. The reason for these changes is explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for abamectin including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with abamectin follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

A summary of the toxicological effects of abamectin as well as specific information on the studies received and the nature of the adverse effects caused by abamectin and the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in the final rule published in the **Federal Register** of May 2, 2016 (81 FR 26147) (FRL–9945–29) and its

supporting documents. Because nothing has changed since the publication of that rule, EPA is incorporating that discussion into this preamble.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides.*

A summary of the toxicological endpoints for abamectin used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of May 2, 2016 (81 FR 26147) (FRL–9945–29).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to abamectin, EPA considered exposure under the petitioned-for tolerances as well as all existing abamectin tolerances in 40 CFR 180.449. EPA assessed dietary exposures from abamectin in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for abamectin. In estimating acute dietary exposure, EPA used food consumption information from the 2003–2008 United States Department of Agriculture (USDA) National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, a refined acute dietary (food and drinking water) exposure assessment was conducted for all established food uses of abamectin except for tea leaves and banana where tolerance-level residues were used. Otherwise, acute anticipated residues derived from field trial data were used. Empirical and 2018 DEEM default processing factors and percent crop treated (PCT) estimates were used, as available. No monitoring data were used.

ii. *Chronic exposure.* The Agency selected a point of departure for chronic effects that is the same as the point of departure for acute effects and so is relying on the acute assessment to be protective of chronic effects. The Agency assessed chronic exposure for purposes of providing background dietary exposure for use in the residential short-term assessments and to incorporate residues/exposure from the food handling establishment (FHE) uses. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the 2003–2008 USDA NHANES/WWEIA. As to residue levels in food, a refined chronic dietary (food and drinking water) exposure assessment was conducted for all established food uses of abamectin except for tea leaves and banana where tolerance-level residues were used. Otherwise, average residues from field trials were used. Residues from use in FHE were included. Empirical and default processing factors and PCT estimates were used, as available.

iii. *Cancer.* Based on the data cited in Unit III.A., EPA has concluded that abamectin does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and PCT information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

- *Condition a:* The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.
- *Condition b:* The exposure estimate does not underestimate exposure for any significant subpopulation group.
- *Condition c:* Data are available on pesticide use and food consumption in a particular area, and the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The following maximum PCT estimates for abamectin were used in the acute dietary risk assessment for the following crops: Almond: 80%; apple: 30%; apricot: 30%; beans (snap, bush, pole, string): 2.5%; cantaloupe: 40%; celery: 90%; cherry: 30%; corn: 2.5%; cotton: 30%; cucumber: 5%; dry beans/ peas: 2.5%; grapefruit: 90%; grape (raisin, table): 40%; grape wine: 30%; hazelnut: 2.5%; lemon: 50%; lettuce: 40%; lima beans: 30%; onion: 20%; orange: 70%; peach: 30%; peanut: 2.5%; pear: 80%; peas (fresh, green, sweet): 2.5%; pecan: 10%; pepper: 40%; pistachio: 2.5%; plum/prune: 30%; potato: 20%; pumpkin: 10%; soybean: 2.5%; spinach: 40%; squash: 10%; strawberry: 60%; sweet corn: 2.5%; tomato: 30%; walnut: 50%; and watermelon: 10%.

The PCT values that were used to refine the livestock commodities for the acute assessment were based on: Corn (2.5%) for beef, goat, horse, and sheep commodities; and the food handling establishment uses (5%) for hog (fat, meat, and meat byproducts) and poultry meat and meat byproducts.

The following average PCT estimates for abamectin were used in the chronic dietary risk assessment for the following crops: Almond: 70%; apple: 15%; apricot: 20%; beans (snap, bush, pole, string): 1%; cantaloupe: 30%; celery: 50%; cherry: 10%; corn: 1%; cotton: 20%; cucumber: 2.5%; dry beans/peas: 1%; grapefruit: 80%; grape raisin: 30%; grape table: 20%; grape wine: 20%; hazelnut: 2.5%; lemon: 40%; lettuce: 30%; lima beans: 10%; onion: 10%; orange: 60%; peach: 20%; peanut: 1%;

pear: 70%; peas (fresh, green, sweet): 1%; pecan: 5%; pepper: 20%; pistachio: 1%; plum/prune: 20%; potato: 10%; pumpkin: 5%; soybean: 1%; spinach: 30%; squash: 10%; strawberry: 30%; sweet corn: 1%; tomato: 20%; walnut: 40%; and watermelon: 10%.

The PCT values that were used to refine the livestock commodities for the chronic assessment were based on: Corn (1%) for beef, goat, horse, sheep meat, fat, and meat byproducts; and the food handling establishment uses (5%) for hog and poultry meat and meat byproducts.

In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS), proprietary market surveys, and California Department of Pesticide Regulation (CalDPR) Pesticide Use Reporting (PUR) for the chemical/crop combination for the most recent 10 years. EPA uses an average PCT for chronic dietary risk analysis and a maximum PCT for acute dietary risk analysis. The average PCT figures for each existing use are derived by combining available public and private market survey data for that use, averaging across all observations, and rounding up to the nearest 5%, except for those situations in which the average PCT is less than 1% or less than 2.5%. In those cases, the Agency would use less than 1% or less than 2.5% as the average PCT value, respectively. The maximum PCT figure is the highest observed maximum value reported within the most recent 10 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%, except where the maximum PCT is less than 2.5%, in which case, the Agency uses less than 2.5% as the maximum PCT.

The Agency believes that the three conditions discussed in Unit III.C.1.iv. have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which abamectin may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for abamectin in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of abamectin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide*.

Based on the Tier I Pesticide Root Zone Model—Ground Water (PRZM–GW) and Tier I Screening Concentration in Ground Water (SCI–GROW) models and the Tier II surface water concentration calculator (SWCC) computer model, the estimated drinking water concentrations (EDWCs) of abamectin for acute exposures are estimated to be 3.76 parts per billion (ppb) for surface water and 0.074 ppb for ground water, and for chronic exposures are estimated to be 1.21 ppb for surface water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For the acute dietary risk assessment, the Agency used a residue distribution file for water based upon the maximum single application rate to ornamentals. For the chronic dietary risk assessment, the water concentration of value 1.21 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Abamectin is currently registered for the following uses that could result in residential exposures: Golf course turf, professional and collegiate sports fields, homeowner bait and bait station products that include an outdoor granular bait formulation for use on fire ant mounds, and several indoor ready-to-use baits of both dust and gel formulations.

EPA assessed residential exposure using the following assumptions: For residential handlers, both dermal and inhalation short-term exposure is expected from the currently registered bait and bait station uses. Residential post-application exposure for adults and children (6 to <11 and 11 to <16) is possible for the use of abamectin on golf courses and collegiate and professional sports fields. Adults and children (6 to <11 and 11 to <16) performing physical post-application activities may receive dermal exposure to abamectin residues. For the indoor liquid spray application as a spot or crack and crevice treatment, residential post-application exposures are possible. However, for the outdoor liquid spray application, exposures are expected to be negligible, and therefore, were not quantitatively assessed. Adults and children performing physical post-application activities on carpets and hard surfaces may receive exposure to abamectin residues.

The following residential post application scenarios were used in the aggregate assessment because they result in the lowest MOEs: Adults (dermal) from exposure to collegiate sports field turf; children 11 to less than 16 years old (dermal) from exposure to golf course turf; children 6 to less than 11 years old (dermal) from exposure to golf course turf; and children 1 to less than 2 years old (dermal, inhalation, and incidental oral) from exposure to carpets.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard-operating-procedures-residential-pesticide*.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has determined that abamectin and emamectin share characteristics to support a testable hypothesis for a common mechanism of action. Consistent with its guidance, the Agency conducted a screening-level cumulative risk assessment to determine if cumulative exposures to these chemicals, including the exposures associated with these new tolerances, would pose a risk of concern. This screening assessment indicates that that cumulative dietary and residential aggregate exposures for abamectin and emamectin are below the Agency's

levels of concern. No further cumulative evaluation is necessary for abamectin and emamectin.

The Agency's screening-level cumulative analysis can be found at *http://www.regulations.gov* in the document titled ''Avermectin Macrocyclic Lactones, Abamectin and Emamectin. Cumulative Screening Risk Assessment'' in docket ID number EPA–HQ–OPP–2018–0143.

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* An increase in qualitative susceptibility was seen in the rabbit developmental toxicity study, where decreases in body weight and food consumption were seen in maternal animals at 2.0 mg/kg/day. In contrast, the fetal effects were much more severe, consisting of cleft palate, clubbed foot, and death at 2.0 mg/kg/day. The point of departure (0.25 mg/kg/day) selected from the dog studies is 8x lower than the dose where rabbit fetal effects were seen. Therefore, it is protective of fetal effects seen in the rabbit developmental toxicity study.

The rat reproduction toxicity and developmental neurotoxicity studies demonstrated both qualitative and quantitative susceptibility in the pups to the effects of abamectin (decreased pup weights and increased postnatal pup mortality). This observation is consistent with the finding that P-glycoprotein (P-gp) is not fully developed in rat pups until postnatal day 28. Therefore, during the period from birth to postnatal day 28, the rat pups are substantially more susceptible to the effects of abamectin than adult rats. However, in humans, P-gp has been detected in the fetus at 22 weeks of pregnancy, and the human newborns have functioning P-gp. Therefore, human infants and children are not expected to have enhanced sensitivity as seen in rat pups.

3. *Conclusion.* Currently, the toxicity endpoints and points of departure for all exposure scenarios are selected from the subchronic and chronic oral toxicity studies in the dogs. The points of departure selected from the dog studies are based on clear NOAELs and protective of all the adverse effects seen in the studies conducted in human relevant studies with rats, CD–1 mice, and rabbits. Therefore, EPA has determined that the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1x. That decision is based on the following findings:

i. The toxicity database for abamectin is complete.

ii. The proposed mode of action (MOA) is interaction with GABA receptors leading to neurotoxicity. The findings of neurotoxic signs observed in the abamectin database are consistent with the proposed MOA. Signs of neurotoxicity ranging from decreases in foot splay reflex, mydriasis (*i.e.,* excessive dilation of the pupil), curvature of the spine, decreased fore- and hind-limb grip strength, tip-toe gate, tremors, ataxia, or spastic movements of the limbs are reported in various studies with different durations of abamectin exposure. In dogs, mydriasis was the most common finding at doses as low as 0.5 mg/kg/day at one week of treatment. No neuropathology was observed. Because the PODs used for assessing aggregate exposure to abamectin and the PODs for assessing cumulative exposure for abamectin and emamectin are protective of these neurotoxic effects in the U.S. population, as well as infants and children, no additional data concerning neurotoxicity is needed at this time to be protective of potential neurotoxic effects.

iii. As explained in Unit III.D.2 ''Prenatal and postnatal sensitivity'', the enhanced susceptibility seen in the rabbit developmental toxicity, the rat reproduction, and the rat developmental neurotoxicity studies do not present a risk concern.

iv. There are no residual uncertainties identified in the exposure databases. The chronic and acute dietary food exposure assessment are refined including use of anticipated residues, default processing factors, and percent crop treated; however, these refinements are considered protective because field trials are conducted to represent use conditions leading to the maximum residues in food when the product is used in accordance with the label and do not underestimate exposures. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to abamectin in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children. These assessments will not underestimate the exposure and risks posed by abamectin.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to abamectin will occupy 66% of the aPAD for children 1 to 2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to abamectin from food and water will utilize 4.9% of the cPAD for all infants less than one year old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of abamectin is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Abamectin is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to abamectin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 840 for adults, 4,200 for children aged 11 to less than 16 years old, 3,200 for children aged 6 to less than 11 years old, and 200 for children 1 to 2 years old. Because EPA's level of concern for abamectin is a MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Intermediate-term adverse effects were identified; however, abamectin is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for abamectin.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, abamectin is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to abamectin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methods for abamectin in plant and livestock commodities are available in the Pesticide Analytical Manual, Volume II (PAM II).

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The U.S. tolerance definition for plants includes avermectin B1a, avermectin B1b, and the 8,9-Z isomer of avermectin B1a. The tolerance expression for Codex includes only avermectin B1a. There are Codex maximum residue limits (MRLs) established on head lettuce, celery, dry beans, and beans (except broad bean and soybean (immature beans with pod).

EPA is establishing tolerances for vegetable, legume, edible podded, subgroup 6A and vegetable, legume, succulent shelled, subgroup 6B at 0.08 ppm to harmonize with the Codex MRL for beans (except broad bean and soybean (immature beans with pod)). For the crop group conversion for leafy greens subgroup 4–16A, the tolerance of 0.1 ppm is in agreement with the Canadian MRL for a comparable subgroup, so EPA is not harmonizing with the Codex MRL for only head lettuce at 0.15 ppm. For leaf petiole vegetables subgroup 22B, harmonization with Codex is not possible because the residue data underlying the U.S. tolerance resulted in a tolerance that is higher than the established Codex MRL on celery (0.1 ppm vs. 0.03 ppm). Harmonizing with the Codex MRL for celery could result in U.S. growers having violative residues despite legal use of the pesticide. Finally, EPA is establishing the tolerance for vegetable, legume, dried shelled, except soybean, subgroup 6C, at 0.01 ppm instead of harmonizing with the Codex MRL of 0.005 ppm for beans (dry) to be consistent with the Agency's rounding class practice.

C. Revisions to Petitioned-For Tolerances

EPA modified some of the commodity definitions to be consistent with Agency nomenclature. Additionally, EPA is establishing several tolerances at different levels than petitioned for to harmonize with Codex MRLs or to be consistent with the Agency's rounding class practice.

V. Conclusion

Therefore, tolerances are established for residues of abamectin in or on arugula at 0.1 ppm; carrot, roots at 0.03 ppm; celtuce at 0.1 ppm; fennel, florence, fresh leaves and stalk at 0.1 ppm; garden cress at 0.1 ppm; leaf petiole vegetable subgroup 22B at 0.1 ppm; leafy greens subgroup 4–16A at 0.1 ppm; tropical and subtropical, small fruit, inedible peel, subgroup 24A at 0.01 ppm; upland cress at 0.1 ppm; vegetable, legume, dried shelled, except soybean, subgroup 6C at 0.01 ppm; vegetable, legume, edible podded, subgroup 6A at 0.08 ppm; and vegetable, legume, succulent shelled, subgroup 6B at 0.08 ppm.

Additionally, the existing tolerances for lychee and vegetable, leafy, except *brassica* group 4 are removed as unnecessary since they are covered by the newly established tolerances.

VI. Statutory and Executive Order Reviews

This action establishes and removes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), nor is it considered a regulatory action under Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national

government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 28, 2019.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.449, amend the table in paragraph (a) as follows:

■ a. Add alphabetically the entries ''Arugula''; ''Carrot, roots''; ''Celtuce''; ''Fennel, Florence, fresh leaves and stalk''; ''Garden cress''; ''Leaf petiole vegetable subgroup 22B''; and ''Leafy greens subgroup 4–16A'';

■ b. Remove the entry for ''Lychee'';

■ c. Add alphabetically the entries ''Tropical and subtropical, small fruit, inedible peel, subgroup 24A'' and ''Upland cress'';

■ d. Remove the entry for ''Vegetable, leafy, except brassica group 4''; and

■ e. Add alphabetically the entries ''Vegetable, legume, dried shelled, except soybean, subgroup 6C''; ''Vegetable, legume, edible podded, subgroup 6A''; and ''Vegetable, legume, succulent shelled, subgroup 6B''.

The additions read as follows:

§ 180.449 Avermectin B_1 and its delta-8,9-isomer; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Arugula	0.1
* * * * *	
Carrot, roots	0.03
* * * * *	
Celtuce	0.1
* * * * *	
Fennel, Florence, fresh leaves and stalk	0.1
* * * * *	
Garden cress	0.1
* * * * *	
Leaf petiole vegetable subgroup 22B	0.1
Leafy greens subgroup 4–16A	0.1
* * * * *	
Tropical and subtropical, small fruit, inedible peel, subgroup 24A	0.01
Upland cress	0.1
* * * * *	
Vegetable, legume, dried shelled, except soybean, subgroup 6C	0.01
Vegetable, legume, edible podded, subgroup 6A	0.08
Vegetable, legume, succulent shelled, subgroup 6B	0.08
* * * * *	

* * * * *

[FR Doc. 2019–19400 Filed 9–6–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2018–0203; FRL–9998–48]

Alcohols, $C_{2–33}$, Manuf. of By-Products From, Overheads; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of alcohols, $C_{2–33}$, manuf. of, by-products from, overheads when used as an inert ingredient (solvent) in pesticide products applied to growing crops and raw agricultural commodities after harvest, and to animals. Spring Trading Company, on behalf of Sasol Chemicals (USA) LLC, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of alcohols, $C_{2–33}$, manuf. of, by-products from, overheads when used in accordance with the terms of those exemptions.

DATES: This regulation is effective September 9, 2019. Objections and requests for hearings must be received on or before November 8, 2019, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0203, 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.*

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@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 an agricultural producer, food manufacturer, or pesticide manufacturer. 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:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2018–0203 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before November 8, 2019. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2018–0203, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Petition for Exemption

In the **Federal Register** of August 24, 2018 (83 FR 42818) (FRL–9982–37), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–11098) by Spring Trading Company (203 Dogwood Trail, Magnolia, TX 77354) on behalf of Sasol Chemicals (USA) LLC (12120 Wickchester Lane, Houston, TX 77079). The petition requested that the 40 CFR be amended by establishing exemptions from the requirement of a tolerance for residues of alcohols, $C_{2–33}$, manuf. of, by-products from, overheads (CAS Reg. No. 876065–86–0) when used as an inert ingredient (solvent) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest under 40 CFR 180.910 and to animals under 40 CFR 180.930. That document referenced a summary of the petition prepared by Spring Trading Company on behalf of Sasol Chemicals (USA) LLC, the petitioner, which is available in the docket, *http://www.regulations.gov.* One relevant comment was received on the notice of filing. EPA's response to this comment is discussed in Unit V.B.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(c)(2)(B) requires EPA, in making a determination of safety for the exemption, to take into account the factors in subparagraphs (b)(2)(C) and (D). Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for alcohols, $C_{2–33}$, manuf. of, by-products from, overheads including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with alcohols, $C_{2–33}$, manuf. of, by-products from, overheads follow.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by alcohols, C_{2-33}, manuf. of, by-products from, overheads as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

C_{2-33} manuf. of, by-products from, overheads are the by-products obtained as solvent stripper overheads after removal of non-alkoxide components during the manufacture of alcohols from ethylene by the Ziegler process. It consists predominantly of paraffins, olefins, naphthenes and esters having carbon numbers in the range C_{2-34} and melting in the range of approximately −17.5 °C to −4.1 °C.

The acute oral and dermal toxicity is low in rats treated with alcohols, C_{2-33}, manuf. of, by-products from, overheads; the lethal dose, LD_{50} is >2,000 milligrams/kilogram (mg/kg). It is not a dermal sensitizer in the guinea pig. Acute inhalation toxicity studies are not available for review. Alcohols, C_{2-33}, manuf. of, by-products from, overheads are not a skin or eye irritant in rabbits.

Three repeated dose studies via oral exposure are available with alcohols, C_{2-33}, manuf. of, by-products from, overheads in rats: A 14-day range finding toxicity study; a combined repeated dose toxicity study with the reproduction/developmental toxicity screening tests in rats; and a 2-generation toxicity study in rats. Following 14 days of oral exposure to alcohols, C_{2-33}, manuf. of, by-products from, overheads in rats, no toxicity is seen at 1,000 mg/kg/day. In the combined repeated dose toxicity study with the reproduction/developmental toxicity screening tests in rats, parental and offspring toxicities are observed at 1,000 mg/kg/day. Parental and reproduction toxicities are manifested as an increased number of females giving birth to dead pups and offspring toxicity is manifested as reduced pup viability. The NOAELs are 500 mg/kg/day. In the 2-generation reproduction toxicity study, offspring toxicity is manifested as reduced pup viability. The NOAEL is 500 mg/kg/day. In a reproduction toxicity study in rats, parental, offspring and reproduction toxicities are seen at 1,000 mg/kg/day. Parental toxicity manifests as reduced body weights and/or weight gain in F_0 females during mating and in F_1 females during gestation and reduced food consumption, offspring toxicity manifests as delayed vaginal opening and preputial separation and reduced ovarian follicles and reproduction toxicity manifests as lower numbers of implantation sites and lower litter size with correlating lower litter weight noted in both generations. The NOAELs are 500 mg/kg/day. Increase fetal susceptibility is not observed as offspring toxicity occurs in the presence of maternal toxicity. The combined repeated dose toxicity studies with the reproduction/developmental toxicity screening tests and the 2-generation toxicity study in rats are considered co-critical, the chronic reference dose (cRfD) of 5.0 mg/kg/day is based on these studies and is protective of the effects observed at 1,000 mg/kg/day.

Carcinogenicity studies with alcohols, C_{2-33}, manuf. of, by-products from, overheads are not available. However, based on the lack of mutagenicity in the Ames test, alcohols, C_{2-33}, manuf. of, by-products are not expected to be carcinogenic.

Neurotoxicity studies are not available for review. However, detailed functional observations (FOB), grip strength, pain perception, landing foot splay and motor activity were performed in the combined repeated dose toxicity study with the reproduction/developmental toxicity screening test in rats and no adverse effects were observed.

Immunotoxicity studies are not available for review. However, evidence of immunotoxicity is not observed in the submitted studies.

In the 2-generation reproduction toxicity study, alcohols, C_{2-33}, manuf. of, by-products from, overheads caused a slight delay in sexual maturation in rat pups. When the appropriate screening and/or testing protocols being considered under the Agency's Endocrine Disruption Screening Program (EDSP) have been developed, C_{2-33}, manuf. of, by-products from, overheads may be subjected to additional screening and/or testing to better characterize effects related to endocrine disruption.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

The combined repeated dose toxicity study with the reproduction/ developmental toxicity screening test and a 2-generation reproduction toxicity study are considered co-critical and these studies are selected for the chronic dietary exposure scenario as well as the dermal and inhalation intermediate and long-term exposure scenarios. The NOAELs are 500 mg/kg/day in these studies. Effects are seen at the limit dose, 1,000 mg/kg/day, in both studies. Parental effects are confined to female rats and included an increased number of females giving birth to dead pups and reduced body weights and/or weight gain in F_0 females during mating and in F_1 females during gestation and reduced food consumption in the reproduction/ developmental toxicity screening test and the 2-generation reproduction toxicity study, respectively. Offspring toxicity is manifested as reduced pup viability and reduced mean delay of vaginal opening and preputial separation and reduced ovarian follicles, respectively. Reproduction toxicity is observed in the both studies and include a lower numbers of implantation sites and lower litter size with correlating lower litter weight in the F_0 and F_1 generations in the reproduction/developmental toxicity screening tests; and increased number of females giving birth to dead pups in the reproduction toxicity study. The standard inter- and intra-species

uncertainty factors of 10x are applied. The default factor of 100% is applied for the dermal and inhalation absorption rates. The chronic reference dose (cRfD) is 5.0 mg/kg/day. The level of concern (LOC) and margin of exposure is 100.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to alcohols, C_{2-33}, manuf. of, by-products from, overheads, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from alcohols, C_{2-33}, manuf. of, by-products from, overheads in food as follows:

Dietary exposure (food and drinking water) to alcohols, C_{2-33}, manuf. of, by-products from, overheads can occur following ingestion of foods with residues from treated crops. Because no adverse effects attributable to a single exposure to alcohols, C_{2-33}, manuf. of, by-products from, overheads are seen in the toxicity databases, an acute dietary risk assessment is not necessary. For the chronic dietary risk assessment, EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM–FCID™, Version 3.16) and food consumption information from the U.S. Department of Agriculture's (USDA's) 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, no residue data were submitted for alcohols, C_{2-33}, manuf. of, by-products from, overheads. In the absence of specific residue data, EPA has developed an approach that uses surrogate information to derive upper-bound exposure estimates for the subject inert ingredient. Upper-bound exposure estimates are based on the highest tolerance for a given commodity from a list of high use insecticides, herbicides, and fungicides. One hundred percent crop treated was assumed, default processing factors, and tolerance-level residues for all foods. A complete description of the general approach taken to assess inert ingredient risks in the absence of residue data is contained in the memorandum entitled ''Alkyl Amines Polyalkoxylates (Cluster 4): Acute and Chronic Aggregate (Food and Drinking Water) Dietary Exposure and Risk Assessments for the Inerts,'' (D361707, S. Piper, 2/25/09) and can be found at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2008–0738.

2. *Dietary exposure from drinking water.* For the purpose of the screening level dietary risk assessment to support this request for an exemption from the requirement of a tolerance for alcohols, C_{2-33}, manuf. of, by-products from, overheads, a conservative drinking water concentration value of 100 ppb based on screening level modeling was used to assess the contribution to drinking water for the chronic dietary risk assessments for parent compound. These values were directly entered into the dietary exposure model.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

Alcohols, C_{2-33}, manuf. of, by-products from, overheads may be used in inert ingredients in products that are registered for specific uses that may result in residential exposure, such as pesticides used in and around the home. The Agency conducted an assessment to represent conservative residential exposure by assessing alcohols, C_{2-33}, manuf. of, by-products from, overheads in pesticide formulations (outdoor scenarios) and in disinfectant-type uses (indoor scenarios). The Agency's assessment of adult residential exposure combines high end dermal and inhalation handler exposure from liquids/backpack sprayer/home garden with a high-end post application dermal exposure from contact with treated lawns. The Agency's assessment of children's residential exposure includes total post-application exposures associated with contact with treated surfaces (dermal and hand-to-mouth exposures).

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found alcohols, C_{2-33}, manuf. of, by-products from, overheads to share a common mechanism of toxicity with any other substances, and alcohols, C_{2-33}, manuf. of, by-products from, overheads does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that alcohols, C_{2-33}, manuf. of, by-products from, overheads do not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* The Agency has concluded that there is reliable data to determine that infants and children will be safe if the FQPA SF of 10X is reduced to 1X for the chronic dietary assessment based on the following reasons. The toxicity database for alcohols, C_{2-33}, manuf. of, by-products from, overheads contain the following studies; combined repeated dose toxicity study with the reproduction/developmental toxicity screening test in rats, 2-generation reproduction toxicity in rats, Ames test and micronucleus assay. No evidence of neurotoxicity was observed in the functional observation battery. There is no indication of immunotoxicity in the available studies; therefore, there is no need to require an immunotoxicity study. Fetal susceptibility is not observed as fetal toxicity occurs in the present of maternal toxicity in the combined repeated dose toxicity study with the reproduction/developmental toxicity screening test and the 2-generation reproduction toxicity study. In addition, the chronic reference dose (cRfD) is protective of any observed effects since it is based on the effects observed in these studies. Therefore, the Agency has concluded that reducing the FQPA SF to 1X is appropriate.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-,

intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, alcohols, C_{2-33}, manuf. of, by-products from, overheads are not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to alcohols, C_{2-33}, manuf. of, by-products from, overheads from food and water will utilize 14.1% of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Alcohols, C_{2-33}, manuf. of, by-products from, overheads are currently used as an inert ingredient in pesticide products that are registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to alcohols, C_{2-33}, manuf. of, by-products from, overheads.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 332 for adults. Adult residential exposure combines high end dermal and inhalation handler exposure from liquids/backpack sprayer/home garden with a high-end post application dermal exposure from contact with treated lawns. EPA has concluded the combined short-term aggregated food, water, and residential pesticide exposures result in an aggregate MOE of 309 for children. Children's residential exposure includes total exposures associated with contact with treated lawns (dermal and hand-to-mouth exposures). Because EPA's level of concern for alcohols, C_{2-33}, manuf. of, by-products from, overheads is an MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Alcohols, C_{2-33}, manuf. of, by-products from, overheads are currently used as an inert ingredient in pesticide products that are registered for uses that could result in intermediate-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with intermediate-term residential exposures to alcohols, C_{2-33}, manuf. of, by-products from, overheads.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that the combined intermediate-term food, water, and residential exposures result in aggregate MOEs of 1105 for adults. Adult residential exposure combines liquids/backpack sprayer/home garden use with a high-end post application dermal exposure from contact with treated lawns. EPA has concluded the combined intermediate-term aggregated food, water, and residential exposures result in an aggregate MOE of 431 for children. Because EPA's level of concern for alcohols, C_{2-33}, manuf. of, by-products from, overheads is an MOE of 100 or below, these MOEs are not of concern.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of mutagenicity, alcohols, C_{2-33}, manuf. of, by-products from, overheads are not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to alcohols, C_{2-33}, manuf. of, by-products from, overheads residues.

V. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. Response to Comments

One commenter believed that all analyses should be provided on alcohols, C_{2-33}, manuf. of, by-products from, overheads residues prior to its use as an inert ingredient in solvents and that no tolerance or tolerance exemption should be allowed. Under the existing legal framework provided by FFDCA section 408, EPA is authorized to establish pesticide chemical tolerances or exemptions where persons seeking such tolerances or exemptions have demonstrated that the pesticide chemical meets the safety standard imposed by the statute. EPA has sufficient data to evaluate the potential adverse effects from exposure to this pesticide chemical, including data on the potential for long-term effects. After evaluating that data and other information, EPA has determined that the tolerance exemptions for this chemical are safe. The commenter has provided no other information for the Agency to consider in making its safety determination.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under residues of alcohols, C_{2-33}, manuf. of, by-products from, overheads (CAS Reg. No. 876065–86–0) when used as an inert ingredient (solvent) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest under 40 CFR 180.910 and applied to animals under 40 CFR 180.930.

VII. Statutory and Executive Order Reviews

This action establishes exemptions from the requirement of a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), nor is it considered a regulatory action under Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition

under FFDCA section 408(d), such as the exemptions in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 21, 2019.

Donna Davis,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.910, add alphabetically the inert ingredient ''Alcohols, C_{2-33}, manuf. of, by-products from, overheads (CAS Reg. No. 876065–86–0)'' to the table to read as follows:

§ 180.910 Inert ingredients used pre- and post-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * * * *	*	*
Alcohols, C_{2-33}, manuf. of, by-products from, overheads (CAS Reg. No. 876065–86–0)	.....	Solvent.
* * * * *	*	*

■ 3. In § 180.930, add alphabetically the inert ingredient ''Alcohols, C_{2-33}, manuf. of, by-products from, overheads (CAS Reg. No. 876065–86–0)'' to the table to read as follows:

§ 180.930 Inert ingredients applied to animals; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * * * *	*	*
Alcohols, C_{2-33}, manuf. of, by-products from, overheads (CAS Reg. No. 876065–86–0)	.....	Solvent.
* * * * *	*	*

[FR Doc. 2019–19398 Filed 9–6–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 10

[Docket No. USCG–2018–0041]

COMDTINST M16721.48 Merchant Mariner Medical Manual

AGENCY: Coast Guard, DHS.

ACTION: Notification of availability.

SUMMARY: The Coast Guard announces the availability of the Merchant Mariner Medical Manual, Commandant Instruction Manual (COMDTINST M16721.48). The guidance in this Manual should assist medical practitioners, the maritime industry, individual mariners, and Coast Guard personnel in evaluating a mariner applicant's physical and medical status to meet the requirements of the merchant mariner medical certificate. This Manual incorporates and consolidates prior guidance on the medical evaluation of merchant mariners contained in several Coast Guard documents. The Manual includes guidance on the medical certificate and related processes, including procedures for application, issuance, and cancellation of the medical certificate.

DATES: The Merchant Mariner Medical Manual, COMDTINST M16721.4, is effective on September 9, 2019.

FOR FURTHER INFORMATION CONTACT: For information about this document or to suggest changes, call or email Adrienne Buggs, M.D., United States Coast Guard, Office of Merchant Mariner

Credentialing; telephone: 202–372–2357, email: *MMCPolicy@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Viewing Documents

The Merchant Mariner Medical Manual, COMDTINST M16721.4, is available on the internet at: *https://www.dcms.uscg.mil/Our-Organization/Assistant-Commandant-for-C4IT-CG-6/The-Office-of-Information-Management-CG-61/About-CG-Directives-System/* and on CGPortal at: *https://cgportal2.uscg.mil/library/directives/SitePages/Home.aspx.* A link to the document will also be located on the National Maritime Center (NMC) site: *https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/National-Maritime-Center/.*

Background and Discussion of the Merchant Mariner Medical Manual

Coast Guard regulations contained in 46 CFR part 10, subpart C, provide the medical and physical standards that merchant mariner applicants must meet prior to being issued a merchant mariner medical certificate. The Merchant Mariner Medical Manual provides guidance to the regulated community on how to comply with the regulations pertaining to medical and physical qualifications for merchant mariners.

Previously, the Coast Guard provided guidance on the medical and physical requirements for merchant mariners in the Medical and Physical Evaluation Guidelines for Merchant Mariner Credentials, Navigation and Inspection Circular (NVIC) 04–08, Commandant Publication (COMDTPUB) 16700.4; in the Guidance on the Issuance of Medical Certificates (NVIC 01–14); and in Part A of the Marine Safety Manual, Volume III, Marine Industry Personnel, COMDTINST M16000.8 (Series) [MSM]. The Merchant Mariner Medical Manual revises, updates and combines the medical evaluation guidance previously published in NVIC 04–08, Part A of the MSM, Volume III, and NVIC 01–14. The Coast Guard developed the draft Manual in consultation with experienced maritime community medical practitioners and industry stakeholders serving on the Merchant Mariner Medical Advisory Committee (MEDMAC) and the Merchant Marine Personnel Advisory Committee (MERPAC). The Manual reflects a synthesis of their recommendations and the medical requirements of title 46 Code of Federal Regulations (CFR) part 10, subpart C.

Members of the public participated in the development of medical policy by providing comment and serving on working groups at the public meetings of MEDMAC and MERPAC. Additionally, the public had the opportunity to comment on drafts of policies contained in this Manual, and its predecessor, NVIC 04–08. See requests for comment on proposed policies regarding: Diabetes, cardiomyopathy, and sleep disorders (80 FR 8586, Feb. 18, 2015); Medications (80 FR 4582, Jan. 28, 2015); Seizures (78 FR 17917, Mar. 25, 2013); and Implantable cardioverter defibrillators (77 FR 55174, Sep. 7, 2012). The Coast Guard considered these public comments when developing this Manual.

Public Comments on the Draft Merchant Mariner Medical Manual:

The Coast Guard published a draft of the Merchant Mariner Medical Manual in the **Federal Register** and sought input from the public on the draft (83 FR 56272, Nov. 13, 2018). The current version of the Manual includes revisions made to address comments received in response to the **Federal Register** notification. While the Coast Guard is not required to seek or respond to public comments prior to publication of a policy document, we chose to do so in this case because of the perceived complexity of the Merchant Mariner Medical Manual, and because doing so provides us the opportunity to (1) create a guidance document that is more viable and responsive to the needs of the impacted community; and (2) to identify and clarify remaining areas of confusion and concern amongst the regulated community.

The Coast Guard's notification sought general comments on the draft Medical Manual, with emphasis on suggestions to improve readability, clarity, and ease of use; and comments on whether the draft Manual's proposed medical certificate cancellation policy adequately addresses safety concerns in situations where the Coast Guard receives information indicating that a medical certificate holder has developed a medical condition that poses a significant risk of sudden incapacitation, or is taking a medication that poses a significant risk of impairment. The Coast Guard received 37 comment letters in response.

General Comments

Ten comment letters provided a general opinion of the draft Manual, with the majority expressing an overall positive opinion. These commenters found the guidance in the Manual to be thorough, straightforward and easy to use, and they found that it answered many questions that had arisen with previous medical policy documents. The favorable commenters appreciated that the document provides medical evaluators, mariners and medical providers with needed and relevant information that will reduce the need for ''back and forth'' between the mariner and the National Maritime Center. They also found it helpful that the Manual outlines the Coast Guard's general concerns with particular medical conditions and discusses the general factors that the Coast Guard will use to evaluate the medical condition and make a fitness determination. Comments provided by the National Transportation Safety Board (NTSB) found that the draft Medical Manual aptly streamlines the medical certification guidance and provides a level of detail that should assist medical personnel during the mariner medical certification exams. The NTSB comment letter also provided the following observations:

> The combination of the Coast Guard's increased oversight of medical certification and development of medical guidance appears to be highly effective at addressing safety concerns regarding medical conditions that pose a significant risk of sudden incapacitation. Since 2009, the NTSB has not found any medical conditions to have contributed to the probable cause of a marine accident. However, the NTSB continues to find effects from impairing substances (alcohol and over-the-counter, prescription, or illicit drugs) to have contributed to the probable cause across all modes of transportation.

One comment letter expressed a generally negative opinion of the draft Medical Manual. This commenter expressed concerns that the guidance in the Medical Manual would sacrifice maritime safety unless the Coast Guard provided further clarification and a plan for implementation. Additionally, the commenter opined that the guidance does not adequately ensure that medical conditions are sufficiently controlled for those mariners at higher risk, because the Medical Manual does not establish clear standards for specific medical conditions. The Coast Guard does strive to increase clarity with publication of the Medical Manual, however, the Coast Guard disagrees that improved clarity requires publication of an implementation plan. Discussion of the Coast Guard's internal implementation plans are beyond the scope of the Medical Manual. Moreover, the majority of the policy contained in the mariner medical manual is not new guidance. It is the same guidance, explained in greater detail, that was already implemented in the years following the

publication of NVIC 04–08. The Coast Guard also disagrees with the assertion that the Medical Manual should establish condition-specific medical standards. The medical and physical standards for merchant mariner medical certification have already been established in 46 CFR part 10, subpart C. Establishing new medical standards is beyond the scope of a policy document.

Ease of Use and Clarity

A letter from another commenter requested that the Coast Guard add an appendix that puts common conditions in a table format for quick reference, similar to that used in the International Maritime Organization's (IMO) Guidelines on the Medical Examination of Seafarers. The Coast Guard disagrees on the basis that a quick reference table would not adequately capture the discussion, explanation and rationale that mariners, treating providers and medical examiners need to understand in order to provide quality examinations to the Coast Guard.

Requirements for Medical Certification

Three comment letters recommended that the Medical Manual provide additional medical requirements for medical certification. One letter commented that the Medical Manual should require all mariners to meet the same medical standard, and should provide ''specific acceptable parameters'' for many conditions to include BMI, pulmonary function, glucose levels, blood pressure, and cardiac function. Another comment letter suggested that the Coast Guard should implement a random medical testing program, similar to that used for drug testing. The third comment letter stated that the physical ability requirements should also include criteria for the speed and facility with which a mariner performs required tasks. The Coast Guard disagrees with these comments. While some of the recommendations pertaining to medical standards may warrant future discussion, changes or additions to the medical and physical requirements for medical certification are beyond the scope of this document. As discussed earlier, the medical and physical standards for medical certification are provided in 46 CFR part 10, subpart C, and changes to those requirements would require a rulemaking.

Guidance on the Conduct of the General Medical Examination

One comment letter addressed the guidance pertaining to the general medical examination and recommended that the mariner medical examination include an evaluation of the mariner's oral/dental health condition to ensure that there are no untreated infections or other dental problems that could cause significant impairment while at sea. The Coast Guard agrees that such guidance may prove helpful and will work with MEDMAC to consider whether and what type of guidance would be appropriate for inclusion in a future version of the Medical Manual.

Frequency of Required Medical Examinations

Four comments letters addressed the frequency of required medical examinations. Three commenters opined that it is excessive to require mariners to undergo a medical examination every two years. They recommended that the medical examination for all mariners, including those sailing under the authority of their Standards of Training, Certification, and Watchkeeping (STCW) endorsement, should remain valid for a period of 5 years, unless the mariner's medical condition warrants issuance of a shorter-duration medical certificate. A different commenter requested clarity on how often a mariner is required to obtain a medical exam, noting that in some instances maritime employers require an annual medical examination, even when the Coast Guard does not.

The Merchant Mariner Medical Manual provides detailed discussion of medical examination and medical certification requirements for specific endorsements, and cites the corresponding regulatory references. It is important to note that the medical certificate validity period and the frequency of required medical examinations may differ between endorsements because of the differing legal requirements. Since these requirements are established in regulation, changing them would require a rulemaking and is beyond the scope of this policy document. The medical examination requirements of individual employers are also outside the scope of this policy document.

Medical Exam Forms

One comment letter requested that the Medical Manual provide a list of medical examination forms that would be acceptable in place of the Form CG–719K or KE. The Coast Guard disagrees and did not provide a list of alternative forms because 46 CFR 10.302(a) requires the following: ''to qualify for a medical certificate, a mariner must provide evidence of meeting the medical and physical standards . . . on a CG–719–K or CG–719–K/E, as appropriate.''

Medical Examiners

Ten comment letters provided comments on the topic of medical examiners. Three commenters requested additional information on the Designated Medical Examiner (DME) program, with one requesting that the Coast Guard publish its timeline and intent to create the DME program. The Coast Guard understands that there is significant interest in the DME program and will publish additional information, as and when appropriate.

Five commenters recommended changes to the regulations regarding individuals who may perform examinations for purposes of the mariner medical certification examination. The Coast Guard considered each of these recommendations, but noted that changes to the regulations are beyond the scope of this policy document.

Internal National Maritime Center Processes

Two comment letters requested that the Manual provide more detail on internal National Maritime Center (NMC) processes. One of these comments expressed concern that the Manual's instructions would allow non-medical personnel to make medical determinations for U.S. mariners.'' This commenter recommended that the Coast Guard add language to specify that all medical certification decisions will be supervised by a licensed medical officer. The second comment noted that the Manual does not contain ''any reassurance or check and balance of examiners, examination quality, or the NMC medical certification process.'' This commenter requested that the Coast Guard add language to address these concerns. The Coast Guard considered both of the comments, but does not concur with them. The staffing and internal quality assurance practices of the NMC are beyond the scope of this document. Nonetheless, the Coast Guard affirms that the activities of the NMC Medical Evaluations Division, particularly those related to medical certification, are supervised by a licensed medical officer. On the issue of providing quality assurance for medical examiners, it is important to recognize that medical examiners are not regulated by the Coast Guard. Therefore, providing reassurance or checks and balances of examiners and their exam quality, is inappropriate and is beyond the scope of this document.

Positive Drug Tests

Two comment letters complained that the Manual does not provide guidance

for the evaluation of mariners who test positive for illegal drug use. One also requested that the Coast Guard add language to the Medical Manual requiring medical treatment for any mariner who fails a USCG required drug test. The Coast Guard does not concur with these commenters. The Medical Manual does not address requirements related to positive drug tests because the regulations and guidance on the management and disposition of individuals who have a positive drug test are contained in 46 CFR parts 5, 10, and 16. Changes to the DOT and Coast Guard drug testing regulation and policy are beyond the scope of this policy document. The Medical Manual contains guidance on how the Coast Guard will conduct the medical certification evaluation for individuals who have been diagnosed with a substance abuse disorder. The Medical Manual does not, however, direct treatment nor provide diagnostic instruction, because such areas are beyond the scope this policy document.

Reporting Material Changes in Medical Condition for Mariners

One commenter asked whether a mariner who holds a medical waiver is required to report a material change in their medical condition. The Coast Guard notes that the answer to this question will depend on the provisions outlined in the mariner's medical waiver letter. Some waiver letters require that the mariner report changes in medical condition to the Coast Guard within a specified period of time. If no such provision is provided in the mariner's waiver letter, then the mariner is not required to disclose the change in medical condition until the time of the next medical certificate application.

Three commenters asked whether employers have an obligation to report to the Coast Guard information regarding a change in condition. One of these same commenters also asked how employees could protect themselves from inaccurate reports. The Coast Guard considered each of these comments and advises that this manual does not impose any new reporting requirements on anyone. In response to the concerns about how mariners will be able to protect themselves from inaccurate reports, the Coast Guard offers that the Merchant Mariner Medical Manual only proposes to take action on medical information that the Coast Guard has determined as credible. The information that the Coast Guard would deem credible differs depending upon the circumstances, but generally will include medical provider documentation, formal incident reports, emergency medical services reports, and investigative reports. The Coast Guard also asserts that mariners will be able to protect themselves from inaccurate reports because this manual provides a standard process for evaluating these reports and further provides mariners with notice of, and the opportunity to respond to, information that indicates that they are no longer fit for medical certification.

Medications

Two comment letters noticed discrepancies in the language in Chapter 7 related to required disclosures of over-the-counter (OTC) medications. One of the commenters also observed that the guidance in the Manual highlighted an error on the most recent version of the Application for Medical Certificate (Form CG–719K, Rev 04/17, Exp. Date 03/31/2021) which incorrectly states that applicants must disclose all OTC medications taken within 30 days prior to the date the applicant signs the CG–719K. Both commenters noted that prior versions of the CG–719K and the Medical Manual only instructed mariners to disclose OTC medications if the medications were used for a period of 30 days or more within the 90 days prior to the date the applicant signs the application to the Coast Guard. They requested that the Coast Guard provide additional language in the Medical Manual to clarify that applicants need only disclose OTC medications, when such medications were used for a period of 30 days or more within the 90 days prior to the date the applicant signs the application to the Coast Guard. The Coast Guard agrees that the language change regarding OTC medication disclosures on the most recent version of the CG–719K was an inadvertent change, and language was added to Chapter 7 of the Medical Manual to clarify the reporting requirements for OTC medications. The Coast Guard will be pursuing a change to CG–719K in the future to correct this change.

Attendant with the language change regarding OTC medications, the Coast Guard also considered the NTSB's comments about impairing medication effects that have contributed to the probable cause of accidents across all modes of transportation. In light of these concerns, the Coast Guard determined that it would be prudent to add additional guidance regarding OTC medications to the Important Safety Warnings paragraph of Chapter 7. Specifically, the additional guidance warns that some OTC medications and preparations may contain intoxicants or other dangerous drugs prohibited by Department of Transportation regulations.

NMC Medical Evaluation Procedures for Mariners With Existing Waivers

One commenter expressed confusion over the discussion of the term *clear error* in Paragraph I.3. of Chapter 3 of the Medical Manual. Paragraph I discusses NMC medical evaluation procedures for mariners with existing waivers, and Paragraph I.3. states that the Coast Guard is not bound to honor a medical waiver that was issued in *clear error,* contrary to duly promulgated policy in effect at time of issuance. The commenter mistakenly interpreted the *clear error* discussion to mean that the Coast Guard would not take responsibility for any erroneous certification decisions that might lead to mishaps or untoward medical situations at sea. In order to clear up this area of confusion, the Coast Guard added language to Paragraph I.3. of Chapter 3, to clarify that the discussion of clear error pertains to medical waivers that were issued in error.

Alternative Testing Methodologies for Color Vision

One comment letter asserted that the discussion of alternative testing methodologies for demonstrating satisfactory color vision contained Paragraph A.1.d.(2)(c) contains an error because it indicates that the Farnsworth D–15 may be used as a potential alternative color vision test for Deck personnel. The Coast Guard disagrees. Title 46 CFR 10.305(a) provides that mariners must demonstrate satisfactory color sense through one of the tests listed in the regulation, or through an alternative test acceptable to the Coast Guard. Paragraph A.1.d.(2) of the Medical Manual provides guidance for mariner applicants seeking to demonstrate satisfactory color vision sense through use of an alternative test, and describes the type of information that the Coast Guard will consider in determining whether an alternative test is sufficient for issuance of the medical certificate. The guidance does not guarantee that any singular test will be accepted as an alternative methodology for any particular mariner applicant, but rather states that the Coast Guard retains final authority for determining whether the testing is acceptable, and recommends that any alternative test be accompanied by a formal color vision evaluation from an ophthalmologist or optometrist.

Coast Guard Mission and Motives With Respect to Medical Credentialing

One commenter asserted that the Coast Guard should ''consider its mission and motives with respect to medical credentialing,'' and expressed displeasure that the Medical Manual focuses on ''medical credentialing without making any decisions on mariner fitness for duty.'' The Coast Guard considered this commenter's concerns and noted that the Medical Manual's purpose, as stated in Paragraph 1 of the Letter of Promulgation for the Merchant Mariner Medical Manual, is to ''provide guidance for evaluating the physical and medical condition of applicants for merchant mariner medical certificates.'' The Coast Guard also notes that making a determination of fitness for certification is distinctly different from making a determination of fitness for duty, and refers the reader to the discussion that follows.

Fitness-for-certification. The medical and physical standards for merchant mariner medical certification are contained in 46 CFR part 10, subpart C. The Coast Guard mariner medical evaluation and certification process seeks to determine whether an applicant meets the medical and physical standards for merchant mariners based upon the information available to the Coast Guard at the time of the certification decision. In accordance with 46 CFR 10.301, the Coast Guard will issue a medical certificate to a mariner meeting the medical and physical standards for merchant mariners. This decision is necessarily a snapshot of the mariner's medical and physical condition at a single point in time.

Fitness-for-duty. In general, fitness for duty refers to an employee's ability to perform his/her essential job functions, as specified by the employer, without impairment from medical conditions or medications. There are some important considerations with respect to fitness for duty. First, an individual's fitness-for-duty status is not static, thus it should be considered whenever an individual reports for duty. Fitness-for-duty status can change suddenly due to an acute illness, injury or incident. As an example, an individual with no medical problems who has been issued a medical certificate and who normally performs their essential job functions without impairment, could become ''not-fit-for duty'' because of an impairing illness such as the flu, and/or due to impairing medications used to treat an acute illness. The second important consideration is that a ''fitness-for duty'' determination refers to an evaluation ordered by an employer to assess an employee's ability to perform the essential functions of their assigned job (as specified by the employer). Such an evaluation might be requested when the employer has a reasonable belief that an employee will not be able to perform essential job functions because of their medical condition. A variety of state and Federal laws govern fitness for duty determinations depending upon the specific circumstances. Generally, a fitness for duty physical must be job-related and consistent with business necessity. One other important consideration is that the merchant mariner medical qualification standards in part 10, subpart C, are the minimum acceptable standards. Some maritime employers may choose to establish medical and/or physical ability requirements for their employees that are more stringent than the Coast Guard medical certification standards based on factors such as specific duty requirements, austere work environments, and operational tempo. In these cases, the employer's fitness-for-duty determinations may differ from the medical certification determination because they are based upon different standards. The Merchant Mariner Medical Manual does not preclude marine employers from establishing more rigorous medical or physical ability guidelines; however, there are additional laws and regulations that apply.

Line-by-Line List of Changes

Two commenters requested a detailed, line-by-line list of proposed changes that compares the current language in NVIC 04–08 with each change, addition and deletion made in the Medical Manual. The Coast Guard considered this comment, but determined that a line-by-line list of changes would not be helpful because of the extensive changes in wording, format and organization between the two documents. Instead, the Coast Guard has already provided a fairly comprehensive discussion of the major changes in Paragraph 6 of the Letter of Promulgation for the Medical Manual.

Medical Certificate Cancellation

Commenters were both supportive of, and objected to, the proposed medical certificate cancellation policy. After considering the comments, we decided to proceed with the proposed policy. One commenter who opposed the policy nevertheless provided a number of suggested edits to the text which were adopted. Those opposed to the cancellation policy suggested the Suspension and Revocation (S&R) process (46 CFR part 5) as an alternative. The Suspension and Revocation (S&R) process has limited jurisdiction over mariner medical issues. On this subject, S&R is authorized in circumstances where a credentialed mariner has committed an act of incompetence relating to the operation of a vessel (see 46 U.S.C. 7703(4)). A mariner having a disqualifying medical condition is not something addressed through S&R unless and until it has impacted vessel operation. Accordingly, the medical certificate cancellation and waiver processes set forth in the manual effectively address mariner medical qualification and fitness for duty concerns in ways that the S&R system cannot. There are also situations such as mariners using dangerous drugs or operating vessels under the influence of alcohol or other intoxicants that present both medical qualification and S&R concerns, so it may be appropriate for the Coast Guard to utilize both the procedures set forth in this manual and the S&R process to address and resolve these issues in the interest of safety.

Waivers, Limitations, Restrictions

One commenter requested more detail on limitations and restrictions. The commenter noted that waivers seem not to have been consistently applied to conditions. The Coast Guard agrees in part and over the last few years has provided further guidance on waivers for the most frequently occurring conditions. Those changes to NVIC 04–08 have been carried forward into this manual.

Process for Removing Waivers, Limitations and Restrictions

One commenter complained that the process for removing restrictions and waivers ''seems uncomfortably weighted toward taking away one's ability to sail, without considering that many conditions—even very serious ones—are temporary in nature.'' The Coast Guard disagrees and notes that the Medical Manual provides specific guidance on medical evaluation procedures for mariners with short-term conditions (see paragraph J. of Chapter 3 of the Medical Manual). These provisions were included to reduce the burden of imposing and then removing waivers and restrictions for conditions that are expected to resolve in the short-term.

This document is issued under the authority of 5 U.S.C. 552(a), 46 U.S.C. 7101, and 46 U.S.C. 7302.

Dated: September 3, 2019.

J. G. Lantz,

Director, Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2019–19370 Filed 9–6–19; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[GN Docket No. 14–177, FCC 19–30]

Use of Spectrum Bands Above 24 GHz for Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of compliance date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved the information collection associated with a rule for specific millimeter wave bands above 24 GHz in the Commission's *Fifth Report and Order,* FCC 19–30, and that compliance with the modified rule is now required. It removes paragraphs advising that compliance was not required until OMB approval was obtained. This document is consistent with the *Fifth Report and Order* FCC 19–30, which states the Commission will publish a document in the **Federal Register** announcing a compliance date for the modified rule section and revise the rule accordingly.

DATES: *Effective date:* This rule is effective September 9, 2019.

Compliance date: Compliance with 47 CFR 25.136(e), (f), and (g), published 84 FR 20810 on May 13, 2019, is required as of September 9, 2019.

FOR FURTHER INFORMATION CONTACT: John Schauble of the Wireless Telecommunications Bureau, Broadband Division at (202) 418–0797 or *John.Schauble@fcc.gov,* Michael Ha of the Office of Engineering and Technology, Policy and Rules Division, at 202–418–2099 or *Michael.Ha@fcc.gov,* or Jose Albuquerque of the International Bureau, Satellite Division, at 202–418–2288 or *Jose.Albuquerque@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that OMB approved the information collection requirement in § 25.136(e), (f), and (g) on August 27, 2019. The rule was modified in the *Fifth Report and Order,* FCC 19–30, published 84 FR 20810, May 13, 2019. The Commission publishes this document as an announcement of the compliance date of the rules. The other rule amendments adopted in the *Fifth Report and Order,* which did not require OMB approval, became effective on June 12, 2019. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW, Washington, DC 20554, regarding OMB Control Number 3060–1215. Please include the applicable OMB Control Number in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document also removes § 25.136(h) of the Commission's rules, which advised that compliance was not required until OMB approval was obtained.

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on August 27, 2019, for the information collection requirement contained in the modification to § 25.136(e), (f), and (g). Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number for the information collection requirement in § 25.136(e), (f), and (g) is 3060–1215.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1215.

OMB Approval Date: August 27, 2019.

OMB Expiration Date: August 31, 2022.

Title: Use of Spectrum Bands Above 24 GHz for Mobile Radio Services.

Form Number: N/A.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local and tribal government.

Number of Respondents and Responses: 1,230 respondents; 1,230 responses.

Estimated Time per Response: .5–10 hours.

Frequency of Response: On occasion reporting requirement; third party disclosure requirement; recordkeeping; upon commencement of service, or within 3 years of effective date of rules; and at end of license term, or 2024 for incumbent licensees.

Obligation to Respond: Statutory authority for this collection are contained in sections 1, 2, 3, 4, 5, 7, 10, 201, 225, 227, 301, 302, 302a, 303, 304, 307, 309, 310, 316, 319, 332, and 336 of the Communications Act of 1934, 47 U.S.C. 151, 152, 153, 154, 155, 157, 160, 201, 225, 227, 301, 302, 302a, 303, 304, 307, 309, 310, 316, 319, 332, 336, Section 706 of the Telecommunications Act of 1996, as amended, 47 U.S.C. 1302.

Total Annual Burden: 735 hours.

Total Annual Cost: $540,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: In this collection, the Commission amended in the *Fifth Report and Order's* § 25.136 by revising the section heading and revising paragraphs (e), (f), and (g) and adding paragraphs (e)(1), (2), (3), and (e)(4)(i), (ii), (iii), and (iv). The *Fifth Report and Order* was adopted on April 12, 2019 and released on April 15, 2019. The Commission added the 50 GHz band (50.4–51.4 GHz) to the bands that are subject to the framework for sharing between the Upper Microwave Flexible Use Service (UMFUS) and the Fixed-Satellite Service (FSS) established in that rule. In turn, since the rules now apply in additional bands, the number of respondents, the annual number of responses, annual burden hours and annual costs will increase for this collection. In addition, the

Commission re-orders the paragraphs in § 25.136.

List of Subjects in 47 CFR Part 25

Satellite communication.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reason discussed in the preamble, the Federal Communications Commission amends 47 CFR part 25 as follows:

PART 25—SATELLITE COMMUNICATIONS

■ 1. The authority citation for part 25 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721, unless otherwise noted.

§ 25.136 [Amended]

■ 2. Amend § 25.136 by removing paragraph (h).

[FR Doc. 2019–19323 Filed 9–6–19; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 84, No. 174
Monday, September 9, 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 208

[CIS No. 2617–18; DHS Docket No. USCIS–2018–0001]

RIN 1615–AC19

Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I–765 Employment Authorization Applications

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security (DHS) proposes to remove a regulatory provision stating that U.S. Citizenship and Immigration Services (USCIS) has 30 days from the date an asylum applicant files the initial Form I–765, Application for Employment Authorization (EAD application) to grant or deny that initial employment authorization application. DHS also proposes to remove the provision requiring that the application for renewal must be received by USCIS 90 days prior to the expiration of the employment authorization.

DATES: Written comments and related material must be submitted on or before November 8, 2019.

ADDRESSES: You may submit comments on the entirety of this proposed rule package, to include any proposed information collection requirements, which is identified as DHS Docket No. USCIS–2018–0001, by any *one* of the following methods:

- *Federal eRulemaking Portal (preferred): http://www.regulations.gov.* Follow the website 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–2018–0001 in your correspondence. Mail must be postmarked by the comment submission deadline. Please note that USCIS cannot accept any comments that are hand delivered or couriered. In addition, USCIS cannot accept mailed comments contained on any form of digital media storage devices, such as CDs/DVDs and USB drives.

FOR FURTHER INFORMATION CONTACT: Daniel Kane, Branch Chief, Service Center Operations, U.S. Citizenship and Immigration Services (USCIS), DHS, 20 Massachusetts NW, Washington, DC 20529–2140; telephone: 202–272–8377.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Public Participation
II. Executive Summary
A. Purpose of the Regulatory Action
B. Legal Authority
C. Costs and Benefits
III. Background and Discussion of Proposed Rule
Processing of Applications for Employment Authorization Documents
1. Elimination of 30-Day Processing Timeframe
2. Removal of the 90-Day Filing Requirement
3. Corresponding U.S. Department of Justice (DOJ) Regulations
IV. Statutory and Regulatory Requirements
A. Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)
1. Summary
2. Background and Purpose of the Proposed Rule
3. Population
4. Transfers, Costs and Benefits of This Proposed Rule
B. Regulatory Flexibility Act
C. Congressional Review Act
D. Unfunded Mandates Reform Act of 1995
E. Executive Order 13132 ((Federalism)
F. Executive Order 12988 (Civil Justice Reform)
G. Paperwork Reduction Act
H. Family Assessment
I. Executive Order 13175
J. National Environmental Policy Act (NEPA)
K. National Technology Transfer and Advancement Act
L. Executive Order 12630
M. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
N. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
V. List of Subjects and Regulatory Amendments

Table of Abbreviations

BCU Background Check Unit
CFDO Center Fraud Detection Operations
CFR Code of Federal Regulations
DHS Department of Homeland Security
EAD Employment Authorization Document
INA Immigration and Nationality Act
HSA Homeland Security Act of 2002
USCIS U.S. Citizenship and Immigration Services

I. Public Participation

DHS invites all interested parties to participate in this rulemaking by submitting written data, views, comments, and arguments on all aspects of this proposed rule. DHS also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. Comments must be submitted in English, or an English translation must be provided. Comments that will provide the most assistance to USCIS in implementing these changes will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that supports such recommended changes.

Instructions: If you submit a comment, you must include the agency name (U.S. Citizenship and Immigration Services) and the DHS Docket No. USCIS–2018–0001 for this rulemaking. Please note that DHS is also pursuing a separate rulemaking entitled ''Asylum Application, Interview, and Employment Authorization for Applicants,'' RIN 1615–AC27, DHS Docket No. USCIS–2019–0011 (''broader asylum EAD NPRM''), separate from this NPRM. The two rulemakings include distinct proposals. For this proposed rule, DHS will only consider comments submitted to Docket No. USCIS–2018–0001. Please ensure that you submit your comments to the correct docket.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and they will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary public comment submission that you make to DHS. DHS may

withhold information provided in comments from public viewing if it determines that it may impact the privacy of an individual or is offensive. For additional information, please read the Privacy and Security Notice, which is available at *http://www.regulations.gov*.

Docket: For access to the docket and to read background documents or comments received, go to *http://www.regulations.gov,* referencing DHS Docket No. USCIS–2018–0001. You may also sign up for email alerts on the online docket to be notified when comments are posted or a final rule is published.

II. Executive Summary

A. Purpose of the Regulatory Action

DHS is proposing to eliminate the regulation articulating a 30-day processing timeframe for USCIS to adjudicate initial Applications for Employment Authorization (Forms I–765 or EAD applications) for asylum applicants. This change is intended to ensure USCIS has sufficient time to receive, screen, and process applications for an initial grant of employment authorization based on a pending asylum application. This change will also reduce opportunities for fraud and protect the security-related processes undertaken for each EAD application. DHS is also proposing to remove the provision requiring that the application for renewal must be received by USCIS 90 days prior to the expiration of their employment authorization. This change is intended to align existing regulatory text with DHS policies implemented under the *Retention of EB–1, EB–2, and EB–3 Immigrant Workers and Program Improvements Affecting High-Skilled Nonimmigrant Workers* final rule, 82 FR 82398, 82457 (2017 AC21 Rule), which became effective January 17, 2017.

B. Legal Authority

The authority of the Secretary of Homeland Security (Secretary) for these regulatory amendments is found in various sections of the Immigration and Nationality Act (INA), 8 U.S.C. 1101 *et seq.,* and the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135, 6 U.S.C. 101 *et seq.* General authority for issuing the proposed rule is found in section 103(a) of the INA, 8 U.S.C. 1103(a), which authorizes the Secretary to administer and enforce the immigration and nationality laws and to establish such regulations as she deems necessary for carrying out such authority. Further authority for the regulatory amendment in the final rule is found in section 208(d)(2) of the INA, 8 U.S.C. 1158(d)(2), which states an applicant for asylum is not entitled to employment authorization, and may not be granted asylum application-based employment authorization prior to 180 days after filing of the application for asylum, but otherwise authorizes the Secretary to prescribe by regulation the terms and conditions of employment authorization for asylum applicants.

C. Costs and Benefits

DHS proposes to remove the requirement to adjudicate initial EAD applications for pending asylum applicants within 30 days. In FY 2017, prior to the *Rosario* v. *USCIS* court order, the adjudication processing times for initial Form I–765 under the Pending Asylum Applicant category exceeded the regulatory set timeframe of 30 days more than half the time. However, USCIS adjudicated approximately 78 percent of applications within 60 days. In response to the *Rosario* v. *USCIS* litigation and to comply with the court order, USCIS has dedicated as many resources as practicable to these adjudications, but continues to face a historic asylum application backlog, which in turn increases the numbers of applicants eligible for pending asylum EADs. However, USCIS does not want to continue this reallocation of resources as a long-term solution because it removes resources from other competing work priorities in other product lines and adds delays to other time-sensitive adjudication timeframes. USCIS could hire more officers, but has not estimated the costs of this and therefore has not estimated the hiring costs that might be avoided if this proposed rule were adopted. Hiring more officers would not immediately and in all cases shorten adjudication timeframes because (1) additional time would be required to onboard and train new employees, and (2) for certain applications, additional time is needed to fully vet an applicant, regardless of staffing levels.

In addition, USCIS has also not estimated the cost impacts that hiring additional officers could have on the agency's form fees. There is currently no fee for asylum applications or the corresponding initial EAD applications,[1] and the cost to the agency for adjudication is covered by fees paid by other benefit requesters. USCIS is not certain of the actual cost impacts of hiring additional adjudicators to process these EAD applications at this time. USCIS expects that potentially higher fees might be avoidable if the proposed rule is adopted. As a primary goal, USCIS seeks to adequately vet applicants and adjudicate applications as quickly and efficiently as possible. This proposed rule may delay the ability for some initial applicants whose EAD processing is delayed beyond the 30-day regulatory timeframe to work.

The impacts of this rule are measured against a baseline. This baseline is the best assessment of the way the world would look absent this proposed action. For this proposed action, USCIS assumes that in the absence of this proposed rule the baseline amount of time that USCIS would take to adjudicate would be 30 days. USCIS also assumes that if this proposed rule is adopted, adjudications will align with DHS processing times achieved in FY 2017 (before the *Rosario* v. *USCIS* court order). This is our best estimate of what would occur if the proposed rule is adopted. USCIS believes the FY 2017 timeframes are sustainable and USCIS intends to meet these timeframes if the proposed rule is adopted. Therefore, USCIS is analyzing the impacts of this rule by comparing the costs and benefits of adjudicating initial EAD applications for pending asylum applications within 30 days compared to the actual time it took to adjudicate these EAD applications in FY 2017.

The impacts of this rule would include both distributional effects (which are transfers) and costs.[2] The distributional impacts would fall on the asylum applicants who would be delayed in entering the U.S. labor force. The distributional impacts (transfers) would be in the form of lost compensation (wages and benefits). A portion of this lost compensation might be transferred from asylum applicants to others that are currently in the U.S.

[1] On April 29, 2019, President Trump directed DHS to propose regulations that would set a fee for an asylum application not to exceed the costs of adjudicating the application, as authorized by section 208(d)(3) of the INA (8 U.S.C. 1158(d)(3)) and other applicable statutes, and would set a fee for an initial application for employment authorization for the period an asylum claim is pending. *See* Presidential Memorandum for the Attorney General and Secretary of Homeland Security on Additional Measures to Enhance Border Security and Restore Integrity to Our Immigration System (Apr. 29, 2019), *available at https://www.whitehouse.gov/presidential-actions/presidential-memorandum-additional-measures-enhance-border-security-restore-integrity-immigration-system/* (last visited June 26, 2019). The implementation of the President's directive would take place via a separate rulemaking, but it is uncertain whether it would reduce the overall resource burden associated with the 30-day adjudication timeframe.

[2] Transfer payments are monetary payments from one group to another that do not affect total resources available to society. See OMB Circular A–4 pages 14 and 38 for further discussion of transfer payments and distributional effects. Circular A–4 is available at: *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf.*

labor force, possibly in the form of additional work hours or overtime pay. A portion of the impacts of this rule would also be borne by companies that would have hired the asylum applicants had they been in the labor market earlier but were unable to find available workers. These companies would incur a cost, as they would be losing the productivity and potential profits the asylum applicant would have provided had the asylum applicant been in the labor force earlier. Companies may also incur opportunity costs by having to choose the next best alternative to immediately filling the job the asylum applicant would have filled. USCIS does not know what this next best alternative may be for those companies. As a result, USCIS does not know the portion of overall impacts of this rule that are transfers or costs. If companies can find replacement labor for the position the asylum applicant would have filled, this rule would have primarily distributional effects in the form of transfers from asylum applicants to others already in the labor market (or workers induced to return to the labor market). USCIS acknowledges that there may be additional opportunity costs to employers such as additional search costs. However, if companies cannot find reasonable substitutes for the labor the asylum applicants would have provided, this rule would primarily be a cost to these companies through lost productivity and profits. USCIS uses the lost compensation to asylum applicants as a measure of the overall impact of the rule—either as distributional impacts (transfers) or as a proxy for businesses' cost for lost productivity. It does not include additional costs to businesses for lost profits and opportunity costs or the distributional impacts for those in an applicant's support network.

The lost compensation to asylum applicants could range from $255.88 million to $774.76 million annually depending on the wages the asylum applicant would have earned. The ten-year total discounted lost compensation to asylum applicants at 3 percent could range from $2,182.68 million to $6,608.90 million and at 7 percent could range from $1,797.17 million to $5,441.62 million (years 2019–2028). USCIS recognizes that the impacts of this proposed rule could be overstated if the provisions in the broader asylum EAD NPRM are finalized as proposed. Specifically, the broader asylum EAD NPRM would limit or delay eligibility for employment authorization for certain asylum applicants.[3] Accordingly, if the population of aliens is less than estimated as a result of the broader asylum EAD rule, the estimated impacts of this rule could be overstated because the population affected may be lower than estimated in this rule.

In instances where a company cannot hire replacement labor for the position the asylum applicant would have filled, USCIS acknowledges that such delays may result in tax losses to the government. It is difficult to quantify income tax losses because individual tax situations vary widely[4] but USCIS estimates the potential loss to other employment tax programs, namely Medicare and social security which have a combined tax rate of 7.65 percent (6.2 percent and 1.45 percent, respectively).[5] With both the employee and employer not paying their respective portion of Medicare and social security taxes, the total estimated tax loss for Medicare and social security is 15.3 percent.[6] Lost wages ranging from $255.88 million to $774.76 million would result in employment tax losses to the government ranging from $39.15 million to $118.54 million.[7] Again, depending on the circumstances of the employee, there could be additional federal income tax losses not estimated here. There may also be state and local income tax losses that would vary according to the jurisdiction.

This proposed rule would result in reduced opportunity costs to the Federal Government. Since *Rosario* compelled USCIS to comply with the 30-day provision in FY 2018, USCIS has redistributed its adjudication resources to work up to full compliance. If the 30-day timeframe is removed, these redistributed resources could be reallocated, potentially reducing delays in processing of other applications, and avoiding costs associated with hiring additional employees. USCIS has not estimated these avoided costs. Additionally, USCIS does not anticipate that removing the separate 90-day EAD filing requirement would result in any costs to the Federal Government.

The proposed rule would benefit USCIS by allowing it to operate under long-term, sustainable case processing times for initial EAD applications for pending asylum applicants, to allow sufficient time to address national security and fraud concerns, and to maintain technological advances in document production and identity verification. Applicants would rely on up-to-date processing times, which provide accurate expectations of adjudication times.

The proposed technical change to remove the 90-day filing requirement would reduce confusion regarding EAD renewal requirements for pending asylum applicants and ensure the regulatory text reflects current DHS policy and regulations under DHS's final 2017 AC21 Rule.[8]

[3] Among other proposed changes, the broader asylum EAD NPRM would implement a Presidential directive related to employment authorization for asylum applicants. On April 29, 2019, President Trump directed DHS to propose regulations that would bar aliens who have entered or attempted to enter the United States unlawfully from receiving employment authorization before any applicable application for relief or protection from removal has been granted, and to ensure immediate revocation of employment authorization for aliens who are denied asylum or become subject to a final order of removal. *See* Presidential Memorandum for the Attorney General and Secretary of Homeland Security on Additional Measures to Enhance Border Security and Restore Integrity to Our Immigration System (Apr. 29, 2019), *available at https://www.whitehouse.gov/presidential-actions/presidential-memorandum-additional-measures-enhance-border-security-restore-integrity-immigration-system/* (last visited June 26, 2019). *See also* Unified Agenda of Regulatory and Deregulatory Actions, RIN 1615–AC27 (Spring 2019), available at *https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201904&RIN=1615-AC27* (last visited Aug. 7, 2019) (''The Department of Homeland Security (DHS) plans to propose regulatory amendments intended to promote greater accountability in the application process for requesting employment authorization and to deter the fraudulent filing of asylum applications for the purpose of obtaining Employment Authorization Documents (EADs).'').

[4] *See* More than 44 percent of Americans pay no federal income tax (September 16, 2018) available at *https://www.marketwatch.com/story/81-million-americans-wont-pay-any-federal-income-taxes-this-year-heres-why-2018-04-16.*

[5] The various employment taxes are discussed in more detail at *https://www.irs.gov/businesses/small-businesses-self-employed/understanding-employment-taxes. See IRS Publication 15, Circular E, Employer's Tax Guide for specific information on employment tax rates. https://www.irs.gov/pub/irs-pdf/p15_18.pdf.*

[6] Calculation: (6.2 percent social security + 1.45 percent Medicare) × 2 employee and employer losses = 15.3 percent total estimated tax loss to government.

[7] Calculations: Lower bound lost wages $255.88 million × 15.3 percent estimated tax rate = $39.15 million.

Upper bound lost wages $774.76 million × 15.3 percent estimated tax rate = $118.54 million.

[8] In the 2017 AC21 final rule, 81 FR 82398, USCIS amended 8 CFR 274a.13 to allow for the automatic extension of existing, valid EADs for up to 180 days for renewal applicants falling within certain EAD categories as described in the regulation and designated on the USCIS website. *See* 8 CFR 274a.13(d). Among those categories is asylum applicants. To benefit from the automatic extension, an applicant falling within an eligible category must (1) properly file his or her renewal request for employment authorization before its expiration date, (2) request renewal based on the same employment authorization category under which the expiring EAD was granted, and (3) will continue to be authorized for employment based on his or her status, even after the EAD expires and is applying for renewal under a category that does not first require USCIS to adjudicate an underlying application, petition, or request.

Table 1 provides a detailed summary of the regulatory changes and the expected impacts of this proposed rule.

TABLE 1—SUMMARY OF PROPOSED PROVISIONS AND IMPACTS

Current provision	Proposed change to provision	Expected costs and transfers from proposed provision	Expected benefits from proposed provision
USCIS has a 30-day EAD adjudication timeframe for applicants who have pending asylum applications.	USCIS proposes to eliminate the provisions for the 30-day adjudication timeframe and issuance of EADs for pending asylum applicants.	*Quantitative:* This provision could delay the ability of some initial applicants to work. A portion of the impacts of the rule would be the lost compensation transferred from asylum applicants to others currently in the workforce, possibly in the form of additional work hours or overtime pay. A portion of the impacts of the rule would be lost productivity costs to companies that would have hired asylum applicants had they been in the labor market, but who were unable to find available workers. USCIS uses the lost compensation to asylum applicants as a measure of these distributional impacts (transfers) and as a proxy for businesses' cost for lost productivity. The lost compensation due to processing delays could range from $255.88 million to $774.76 million annually. The total ten-year discounted lost compensation for years 2019–2028 averages $4,395.79 million and $3,619.40 million at discount rates of 3 and 7 percent, respectively. USCIS does not know the portion of overall impacts of this rule that are transfers or costs. Lost wages ranging from $255.88 million to $774.76 million would result in employment tax losses to the government ranging from $39.15 million to $118.54 million. *Qualitative:* There may also be additional distributional impacts for those in an applicant's support network—if applicants are unable to work legally, they may need to rely on resources from family members, friends, non-profits, or government entities for support.	*Quantitative:* Not estimated. *Qualitative:* DHS would be able to operate under long-term sustainable case processing times for initial EAD applications for pending asylum applicants, to allow sufficient time to address national security and fraud concerns, and to maintain technological advances in document production and identity verification without having to add any resources. This rule would result in reduced opportunity costs to the Federal Government. If the 30-day timeframe is removed, USCIS could reallocate the resources it redistributed to comply with the 30-day provision, potentially reducing delays in processing of other applications and avoiding costs associated with hiring additional employees.
Applicants can currently submit a renewal EAD application 90 days before the expiration of their current EAD.	USCIS proposes to remove the 90-day submission requirement for renewal EAD applications.	*Quantitative:* None. *Qualitative:* None.	*Quantitative:* None. *Qualitative:* Applicants— • Reduces confusion regarding EAD renewal requirements. Some confusion may nonetheless remain if applicants consult outdated versions of regulations or inapplicable DOJ regulations. DHS/USCIS— • The DHS regulations would be updated to match those of other EAD categories.

As previously discussed, USCIS does not know the portion of overall impacts of this rule that are transfers or costs, but estimates that the maximum monetized impact of this rule from lost compensation is $774.76 million annually. If all companies are able to easily find reasonable labor substitutes for the positions the asylum applicant would have filled, they will bear little or no costs, so $774.76 million will be transferred from asylum applicants to workers currently in the labor force or induced back into the labor force (we assume no tax losses as a labor substitute was found). Conversely, if companies are unable to find reasonable labor substitutes for the position the asylum applicant would have filled then $774.76 million is the estimated maximum monetized cost of the rule and $0 is the estimated minimum in monetized transfers from asylum applicants to other workers. In addition, under this scenario, because the jobs would go unfilled there would be a loss of employment taxes to the Federal Government. USCIS estimates $118.54 million as the maximum decrease in employment tax transfers from

companies and employees to the Federal Government. The two scenarios described above represent the estimated endpoints for the range of monetized impacts resulting from this rule, and are summarized in Table 2 below.

TABLE 2—SUMMARY OF RANGE OF MONETIZED ANNUAL IMPACTS

Category	Description	Scenario: No replacement labor found for asylum applicants		Scenario: All asylum applicants replaced with other workers		Primary (half of the highest high for each row)
		Low wage	High wage	Low wage	High wage	
Cost	Lost compensation used as proxy for lost productivity to companies.	$255.88	$774.76	$0.00	$0.00	$387.38
Transfer	Compensation transferred from asylum applicants to other workers.	0.00	0.00	255.88	774.76	387.38
Transfer	Lost employment taxes paid to the Federal Government	39.15	118.54	0.00	0.00	59.27

As required by OMB Circular A–4, Table 3 presents the prepared A–4 accounting statement showing the costs and transfers associated with this proposed regulation. For the purposes of the A–4 accounting statement below, USCIS uses the mid-point as the primary estimate for both costs and transfers because the total monetized impact of the rule from lost compensation cannot exceed $774.76 million and as described, USCIS is unable to apportion the impacts between costs and transfers. Likewise, USCIS uses a mid-point for the reduction in employment tax transfers from companies and employees to the Federal Government when companies are unable to easily find replacement workers. USCIS notes that there may be some unmonetized costs such as additional opportunity costs to employers that would not be captured in these monetized estimates.

TABLE 3—OMB A–4 ACCOUNTING STATEMENT ($ MILLIONS, 2017)

[Period of analysis: 2019–2028]

Category	Primary estimate		Minimum estimate	Maximum estimate	Source citation (RIA, preamble, etc.)
Benefits					
Monetized Benefits	(7%) (3%)	N/A N/A	N/A N/A	N/A N/A	RIA.
Annualized quantified, but un-monetized, benefits	N/A		N/A	N/A	RIA.
Unquantified Benefits	Applicants would benefit from reduced confusion over renewal requirements. DHS would be able to operate under sustainable case processing times for initial EAD applications for pending asylum applicants, to allow sufficient time to address national security and fraud concerns, and to maintain technological advances in document production and identity verification.				RIA.
Costs					
Annualized monetized costs (discount rate in parenthesis)	(7%) (3%)	$387.38 $387.38	$0 $0	$774.76 $774.76	RIA. RIA.
Annualized quantified, but un-monetized, costs	N/A		N/A	N/A	RIA.
Qualitative (unquantified) costs	In cases where companies cannot find reasonable substitutes for the labor the asylum applicants would have provided, affected companies would also lose profits from the lost productivity. In all cases, companies would incur opportunity costs by having to choose the next best alternative to immediately filling the job the pending asylum applicant would have filled. There may be additional opportunity costs to employers such as search costs.				RIA.
Transfers					
Annualized monetized transfers: ''on budget''	(7%) (3%)	$0 $0	$0 $0	$0 $0	RIA.
From whom to whom?	N/A				N/A.
Annualized monetized transfers: ''off-budget''	(7%) (3%)	$387.38 $387.38	$0 $0	$774.76 $774.76	RIA.
From whom to whom?	From asylum applicants to workers in the U.S. labor force or induced into the U.S. labor force. Additional distributional impacts from asylum applicant to the asylum applicant's support network that provides for the asylum applicant while awaiting an EAD.				RIA.
Annualized monetized transfers: ''off-budget''	(7%) (3%)	$59.27 $59.27	$0 $0	$118.54 $118.54	RIA.
From whom to whom?	A reduction in employment taxes from companies and employees to the Federal Government. There could also be a transfer of federal, state, and local income tax revenue.				

Category	Effects	Source citation (RIA, preamble, etc.)
Effects on state, local, and/or tribal governments	None; no significant impacts to national labor force or to the labor force of individual states is expected. Possible loss of tax revenue.	RIA.
Effects on small businesses	None	RFA.
Effects on wages	None	RIA.
Effects on growth	None	RIA.

III. Background and Discussion of Proposed Rule

Processing of Applications for Employment Authorization Documents

1. Elimination of 30-Day Processing Timeframe

Pursuant to 8 CFR 208.7, 274a.12(c)(8), and 274a.13(a)(2), pending asylum applicants may request an EAD by filing an EAD application using Form I–765. Under current regulations at 8 CFR 208.7(a)(1), USCIS must adjudicate initial employment authorization requests under the (c)(8) category within 30 days of when the applicant files the Form I–765.[9] The 30-day timeframe in 8 CFR 208.7(a)(1) was established more than 20 years ago,[10] when the former Immigration and Naturalization Service (INS) adjudicated EAD applications at local INS offices. EAD applications are now adjudicated at USCIS Service Centers. As discussed below, DHS believes that the 30-day timeframe is outdated, does not account for the current volume of applications and no longer reflects current operational realities.[11] Increases in EAD applications for pending asylum applicants have outpaced Service Center Operations resources over the last twenty years. Additionally, the level of fraud sophistication and the threat immigration-related national security concerns posed today are more complex than they were 20 years ago. Furthermore, changes in intake and document production to reduce fraud and address threats to national security, as well as necessary vetting to address such concerns, are not reflected in the current regulatory timeframe. Thus, DHS proposes to remove this provision. *See* proposed 8 CFR 208.7(a)(1). This change is intended to ensure USCIS has sufficient time to receive, screen, and process applications for an initial grant of employment authorization, based on a pending asylum application. This change would also reduce opportunities for fraud and protect the security-related processes undertaken for each EAD application.[12]

In addition, on May 22, 2015, plaintiffs in *Rosario* v. *USCIS,* No. C15–0813JLR (W.D. Wash.), brought a class action in the U.S. District Court for the Western District of Washington to compel USCIS to comply with the 30-day provision of 8 CFR 208.7(a)(1). On July 26, 2018, the court enjoined USCIS from further failing to adhere to the 30-day deadline for adjudicating EAD applications. USCIS is working towards compliance with the court order. Compliance with the court order places an extraordinary strain on already strained agency resources, and USCIS will not be able to sustain such a burden in the long-term without adding additional agency resources. Thus, USCIS reiterates that it cannot sustainably meet the 30-day timeframe for the reasons outlined below, and is proposing removal of this provision.

DHS intends to grandfather into the 30-day adjudication timeframe those class members who filed their EAD applications prior to the effective date of any final rule that changes the 30-day adjudication timeline.

Growth of Receipts and Backlog

The growth of asylum receipts along with the growing asylum backlog has contributed to an increase in EAD applications for pending asylum applicants that has surpassed available Service Center Operations resources. As of March 12, 2018, the affirmative asylum backlog stood at 317,395 applications[13] and has been growing for several years. In part, this is due to a continued growth in affirmative asylum filings and historic increases in protection screenings at the border to which significant resources had to be diverted. Two main factors contributing to this backlog include: The diversion of resources away from the affirmative asylum caseload to protection screening of border arrivals, including credible fear and reasonable fear screenings, and a subsequent increase in asylum application filings, especially by Venezuelans, Central Americans, and unaccompanied alien children. For instance, credible fear screening for aliens apprehended at or near the U.S. border, *see* 8 CFR 208.30, increased to over 94,000 in fiscal year (FY) 2016 from 36,000 in FY 2013. Asylum applications increased to over 100,000 in FY 2017 for the first time in 20 years.[14] The USCIS Asylum Division

[9] The regulations at 8 CFR 208.7(a)(1) currently provide that if the asylum application is not denied, USCIS will have 30 days from the date of filing of the request for employment authorization to grant or deny the employment authorization request. Certain events may suspend or restart the 30-day adjudication period. For instance, the time between the issuance of a request for evidence and the receipt of the response, or a delay requested or caused by the applicant, is not counted as part of the 30-day period. 8 CFR 208.7(a)(2).

[10] *See Rules and Procedures for Adjudication of Applications for Asylum or Withholding of Deportation and for Employment Authorization,* 59 FR 62284 (Dec. 5, 1994); *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures,* 62 FR 10312, 10337 (Mar. 6, 1997).

[11] DHS recognizes the regulatory history for originally promulgating this provision. *See* 62 FR at 10318 (one of the chief purposes of the deadline was ''to ensure that bona fide asylees are eligible to obtain employment authorization as quickly as possible.''); *Rules and Procedures for Adjudication of Applications for Asylum or Withholding of Deportation and for Employment Authorization,* 59 FR 14779, 14780 (Mar. 30, 1994) (proposed rule) (the imposition of a 150-day waiting period before an asylum seeker may submit an initial EAD application—30 days before the 180 asylum clock runs—was done with an understanding that ''[i]deally . . . few applicants would ever reach the 150-day point.''); *id.* (discussing selection of 150 days because it was a period ''beyond which it would not be appropriate to deny work authorization to a person whose claim has not been adjudicated.''); *see also* 59 FR at 62290–91 (final rule) (weighing competing considerations, including, among other things, ensuring the availability of work authorization to legitimate applicants and limiting the burden of the employment authorization process on overall adjudication workloads); 62 FR 10337 (Mar. 6, 1997) (retaining the 30-day timeframe following enactment of the 180-day statutory waiting period). The existing 30-day timeframe has become untenable notwithstanding its humanitarian goals. However, for the reasons explained elsewhere in this preamble, DHS believes it continues to meet the goals of the underlying statutory scheme, such as by its return to processing affirmative asylum applications on a ''last in, first out'' (LIFO) basis.

[12] DHS also proposes a technical change to this paragraph and paragraph (c)(3), which would replace a reference to the former INS with a reference to USCIS.

[13] An affirmative asylum application filed by a principal asylum applicant may include a dependent spouse and children, who may also file their own EAD applications based on the pending asylum application.

[14] The USCIS Refugee, Asylum, and International Operations Parole System provided this data on March 15, 2018.

received 44,453 affirmative asylum applications in FY 2013, 56,912 in FY 2014, 84,236 in FY 2015, 115,888 in FY 2016, and 142,760 in FY 2017.[15] The 221.15 percent increase of affirmative asylum receipts over the span of five years has directly contributed to the increase in (c)(8) EAD receipts. USCIS received 41,021 initial EAD applications from individuals with pending asylum applications in FY 2013, 62,169 in FY 2014, 106,030 in FY 2015, 169,970 in FY 2016, and 261,782 in FY 2017. USCIS also received 37,861 renewal EAD applications from individuals with pending asylum applications in FY 2013, 47,103 in FY 2014, 72,559 in FY 2015, 128,610 in FY 2016, and 212,255 in FY 2017. The increase in both initial and renewal EAD applications coupled with the growing asylum backlog has grossly outpaced Service Center Operations resources, specifically because USCIS has had to reallocate resources from other product lines to adjudicate these EAD applications.[16] Thus, as demonstrated in Section IV below, the increase in both asylum applications and EAD applications for those with pending asylum applications has added to the backlog and led to a delay in adjudication times.

Changes in Intake and Document Production

Additionally, at the time the 30-day timeframe was established, EADs, which were formerly known as Forms I–688B, were produced by local offices that were equipped with stand-alone machines for such purposes. While decentralized card production resulted in immediate and customized adjudications for the public, the cards produced did not contain state-of-the-art security features, and they were susceptible to tampering and counterfeiting. Such deficiencies became increasingly apparent as the United States faced new and increasing threats to national security and public safety.

In response to these concerns, the former INS and DHS made considerable efforts to upgrade application procedures and leverage technology in order to enhance integrity, security, and efficiency in all aspects of the immigration process. For example, to combat the document security problem discussed above, the former INS took steps to centralize application filing locations and card production. By 2006, DHS fully implemented these centralization efforts.[17]

In general, DHS now requires applicants to file Applications for Employment Authorization at a USCIS Lockbox,[18] which is a Post Office box used to accelerate the processing of applications by electronically capturing data and receiving and depositing fees.[19] If DHS ultimately approves the application, a card order is sent to a card production facility, where a tamper-resistant card reflecting the specific employment authorized category is produced and then mailed to the applicant. While the 30-day timeframe may have made sense when local offices processed applications and produced the cards, DHS believes that the intervening changes discussed above now mean that a 30-day timeframe is not reflective of current processes.

Fraud, Criminality, and National Security Considerations

DHS has been unable to meet the 30-day processing timeframe in certain cases due to changes to the agency's vetting procedures and increased background checks, which resulted from the Government's response to September 11, 2001 terror attacks (''9/11''). Information obtained from such checks may affect eligibility for an initial EAD based on a pending asylum application. Specifically, the Immigration and Naturalization Service (INS), followed by U.S. Citizenship and Immigration Services (USCIS), made multiple changes to enhance the coverage of security checks, detect applicants who pose risks to national security and public safety, deter benefits fraud, and ensure that benefits are granted only to eligible applicants, in response to 9/11.

These changes included the creation of the Application Support Centers to collect applicant fingerprints, IBIS checks for all applications and FBI name check screening. In May 2004, USCIS created the Office of Fraud Detection and National Security (FDNS) to provide centralized support and policy guidance for security checks and anti-fraud operations.[20] In August 2004, the Homeland Security Presidential Directive (HSPD) 11, *Comprehensive Terrorist-Related Screening Procedures,*[21] directed DHS to

> incorporate security features . . . that resist circumvention to the greatest extent possible [and consider] information individuals must present, including, as appropriate, the type of biometric identifier[s] or other form of identification or identifying information to be presented, at particular screening opportunities.

Since 9/11, USCIS implemented changes in the collection of biographic and biometric information for document production related to immigration benefits, including the Application for Employment Authorization (Form I–765). As part of the Employment Authorization benefit adjudications process since the inception of FDNS, USCIS must verify the identity of the individual applying for an EAD and determine whether any criminal, national security or fraud concerns exist. Under the current national security and fraud vetting guidelines, when an adjudicator determines that a criminal, national security and/or fraud concern exists, the case is forwarded to the Background Check Unit (BCU) or Center Fraud Detection Office (CFDO) for additional vetting.[22] Once the vetting

[15] These numbers only address the affirmative asylum applications that fall under the jurisdiction of USCIS' Asylum Division. Defensive asylum applications, filed with the Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR) are also eligible for (c)(8) EADs. There is an ongoing backlog of pending defensive asylum cases at EOIR, which as of late 2017 had approximately 650,000 cases pending. *See* Memorandum from Attorney General Jefferson B. Sessions III to the Executive Office for Immigration Review, *Renewing Our Commitment to the Timely and Efficient Adjudication of Immigration Cases to Serve the National Interest* (Dec. 5, 2017). The defensive asylum backlog at EOIR also contributes to an increase in both initial and renewal (c)(8) EAD applications.

[16] In response to the growing backlog and court-ordered requirements in *Rosario* v. *USCIS,* No. C15–0813JLR (W.D. Wash. July 26, 2018), Service Center Operations re-allocated available officer resources to try to meet the 30-day processing time for initial EAD applications, causing a strain across other Service Center Operations product lines.

[17] *See* USCIS Memorandum from Michael Aytes, *Elimination of Form I–688B, Employment Authorization Card* (Aug. 18, 2006). In January 1997, the former INS began issuing new, more secure EADs from a centralized location, and assigned a new form number (I–766) to distinguish it from the less secure, locally produced EADs (Forms I–688B). DHS stopped issuing Form I–688B EADs from local offices altogether in 2006.

[18] Asylum applicants, however, make their request for employment authorization directly on the Application for Asylum and Withholding of Removal, Form I–589, and need not file a separate Application for Employment Authorization following a grant of asylum. If they are requesting employment authorization based on their pending asylum application, they must file a separate request for employment authorization on Form I–765.

[19] USCIS, *Field Office FAQs* (May 2, 2013), *https://www.uscis.gov/about-us/find-uscis-office/field-offices/field-office-faqs/faq/what-lockbox.*

[20] In 2010, FDNS was promoted to a Directorate, which elevated the profile and brought operational improvements to this important work. *See* USCIS, Fraud Detection and National Security Directorate, *https://www.uscis.gov/about-us/directorates-and-program-offices/fraud-detection-and-national-security/fraud-detection-and-national-security-directorate.*

[21] HSPD11, *Comprehensive Terrorist-Related Screening Procedures* (Aug. 27, 2004), *available at https://fas.org/irp/offdocs/nspd/hspd-11.html.*

[22] USCIS conducts background checks on individuals applying for an immigration benefit because United States immigration laws and regulations preclude USCIS from granting immigration benefits to individuals with certain criminal or administrative violations. *See, e.g.,* 8

is completed and a finding is made, the adjudicator uses the information provided from BCU and/or CFDO to determine whether the individual is eligible to receive the requested benefit.

These security procedures implemented post 9/11 and well after the establishment of the 30-day adjudication timeframe in 1994, coupled with sudden increases in applications, have extended adjudication and processing times for cases with potential eligibility issues discovered during background checks outside of the current regulatory 30-day timeframe. It would be contrary to USCIS' core missions and undermine the integrity of the documents issued if USCIS were to reduce or eliminate vetting procedures solely to meet a 30-day deadline established decades ago.

In sum, DHS is proposing to eliminate the 30-day processing provision at 8 CFR 208.7(a)(1) because of the increased volume of affirmative asylum applications and accompanying Applications for Employment Authorization, over two decades of changes in intake and EAD document production, and the need to appropriately vet applicants for fraud and national security concerns. DHS believes that the 30-day timeframe described in 8 CFR 208.7(a)(1) does not provide sufficient flexibility for DHS to meet its core missions of enforcing and administering our immigration laws and enhancing security.

Case processing time information may be found at *https://egov.uscis.gov/processing-times/,* and asylum applicants can access the web page for realistic processing times as USCIS regularly updates this information.

DHS welcomes public comment on all aspects of this proposal, including alternate suggestions for regulatory amendments to the 30-day processing timeframe not already discussed.

2. Removal of the 90-Day Filing Requirement

DHS proposes to remove 8 CFR 208.7(d), because 8 CFR 274a.13(d), as amended in 2017, serves the same policy purpose as 8 CFR 208.7(d), and is arguably at cross-purposes with such provision. Under the 2017 AC21 Rule, certain individuals eligible for employment authorization under designated categories may have the validity of their EADs extended for up to 180 days from the document's expiration date if they file an application to renew their EAD before the EAD's expiration date. *See* 8 CFR 274a.13(d)(1). Specifically, the 2017 AC21 Rule automatically extends the EADs falling within the designated categories as long as (1) the individual filed the request to renew his or her EAD before its expiration date, (2) the individual is requesting renewal based on the same employment authorization category under which the expiring EAD was granted, and (3) the individual's request for renewal is based on a class of aliens whose eligibility to apply for employment authorization continues even after the EAD expires, and is based on an employment authorization category that does not first require USCIS to adjudicate an underlying application, petition, or request. *Id.* As noted in the preamble to the 2017 AC21 Rule, and as currently reflected on the USCIS website, the automatic extension amendment applies to individuals who have properly filed applications for asylum. *See id.*; 8 CFR 274a.12(c)(8); 81 FR 82398 at 82455–56 n.98.[23]

Because the 2017 AC21 Rule effectively prevents gaps in work authorization for asylum applicants with expiring EADs, DHS finds it unnecessary to continue to require that pending asylum applicants file for EAD renewal at least 90 days before the EAD's scheduled expiration. The 2017 AC21 Rule amendment significantly mitigates the risk of gaps in employment authorization and required documentation for eligible individuals, providing consistency for employers who are responsible for verifying employment authorization. An additional 90-day requirement is unnecessary.

DHS implemented the 180-day automatic extension for eligible individuals, including pending asylum applicants for renewal EADs, in accordance with the 2017 AC21 Rule. As a result, the subject EADs are already automatically extended, even if the renewal EAD application has not been submitted at least 90 days in advance of its expiration. DHS therefore proposes to make a clarifying amendment to delete subsection (d) from 8 CFR 208.7. Under this change, pending asylum applicants would not need to submit Form I–765 renewal applications at least 90 days prior to the employment authorization expiration in order for the employment authorization to be renewed. Pending asylum applicants would be able to submit Form I–765 renewal applications up to 180 days prior to the employment authorization expiration, as recommended by USCIS on its website, and the EAD would be automatically extended for up to 180 days from the date of expiration.[24] This proposed change would reduce confusion regarding EAD renewal application requirements for pending asylum applicants and ensure the regulatory text reflects current DHS policy and regulations under the 2017 AC21 Rule. DHS welcomes public comment on all aspects of this proposal.

3. Corresponding U.S. Department of Justice (DOJ) Regulations

This proposed rule would remove (1) the 30-day processing provision for initial employment authorization applications for those with pending asylum applications, and (2) the 90-day timeframe for receipt of an application to renew employment authorization. See 8 CFR 208(a)(1), and (d).

Currently, these provisions can be found in two parallel sets of regulations: Regulations under the authority of DHS are contained in 8 CFR part 208; and regulations under the authority of the Department of Justice (DOJ) are contained in 8 CFR part 1208. Each set of regulations contains substantially similar provisions regarding employment authorization, and each articulates both the 30-day provision for DHS adjudications and the 90-day timeframe for renewal applications before DHS. *Compare* 8 CFR 208.7(a)(1) and (d), *with* 8 CFR 1208.7(a)(1) and (d).

This proposed rule would revise only the DHS regulations at 8 CFR 208.7. Notwithstanding the language of the parallel DOJ regulations in 8 CFR 1208.7, as of the effective date of a final rule, the revised language of 8 CFR 208.7(a)(1) and removal of 8 CFR 208.7(d) would be binding on DHS and its adjudications. DHS would not be

CFR 208.7(a)(1) (aggravated felony bar to employment authorization for asylum applicants).

[23] *See also* USCIS, Automatic Employment Authorization Document (EAD) Extension, *https://www.uscis.gov/working-united-states/automatic-employment-authorization-document-ead-extension.*

[24] *See* 2017 AC21 Rule, 81 FR at 82401 (''Specifically, the rule automatically extends the employment authorization and validity of existing EADs issued to certain employment-eligible individuals for up to 180 days from the date of expiration, as long as: (1) A renewal application is filed based on the same employment authorization category as the previously issued EAD (or the renewal application is for an individual approved for Temporary Protected Status (TPS) whose EAD was issued under 8 CFR 274a.12(c)(19)); (2) the renewal application is timely filed prior to the expiration of the EAD (or, in accordance with an applicable **Federal Register** notice regarding procedures for renewing TPS-related employment documentation) and remains pending; and (3) the individual's eligibility for employment authorization continues beyond the expiration of the EAD and an independent adjudication of the underlying eligibility is not a prerequisite to the extension of employment authorization''); USCIS, Employment Authorization Document, *https://www.uscis.gov/greencard/employment-authorization-document (''Generally, you should not file for a renewal EAD more than 180 days before your original EAD expires.'').*

bound by the 30-day provision of the DOJ regulations at 8 CFR 1208.7(a)(1). DOJ has no authority to adjudicate employment authorization applications. DHS has been in consultation with DOJ on this proposed rule, and DOJ may issue conforming changes at a later date. DHS welcomes public comment on this matter.

IV. Statutory and Regulatory Requirements

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 and benefits of available regulatory alternatives and, if a 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. This proposed rule has been designated as a ''significant regulatory action'' and it is economically significant, since it meets the $100 million threshold under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has reviewed this proposed regulation.

1. Summary

DHS proposes to remove the requirement to adjudicate initial EAD applications for pending asylum applicants within 30 days. In FY 2017, prior to the *Rosario* v. *USCIS* court order, the adjudication processing times for initial Form I–765 under the Pending Asylum Applicant category exceeded the regulatory set timeframe of 30 days more than half the time. However, USCIS adjudicated approximately 78 percent of applications within 60 days. In response to the *Rosario* v. *USCIS* litigation and to comply with the court order, USCIS continues to resource the adjudication of pending asylum EAD applications. USCIS has dedicated as many resources as practicable to these adjudications, but continues to face an asylum application backlog, which in turn increases the numbers of applicants eligible for pending asylum EADs. However, this reallocation of resources is not a long-term sustainable solution because USCIS has many competing priorities and many time-sensitive adjudication timeframes. Reallocating resources in the long-term is not sustainable due to work priorities in other product lines. USCIS could hire more officers, but that would not immediately and in all cases shorten adjudication timeframes because (1) additional time would be required to onboard and train new employees, and (2) for certain applications, additional time is needed to fully vet an applicant, regardless of staffing levels. In addition, there is currently no fee for asylum applications or the corresponding initial EAD applications, and the cost of adjudication is covered by fees paid by other benefit requesters. USCIS is uncertain of the actual cost impacts of hiring additional adjudicators to process these EAD applications at this time. If the backlog dissipates in the future, USCIS may seek to redistribute adjudication resources.

As a primary goal, USCIS seeks to adequately vet applicants and adjudicate applications as quickly and efficiently as possible. This proposed rule may delay the ability for some initial applicants whose EAD processing is delayed beyond the 30-day regulatory timeframe to work.

The impacts of this rule are measured against a baseline. This baseline is the best assessment of the way the world would look absent this proposed action. For this proposed action, USCIS assumes that in the absence of this proposed rule the baseline amount of time that USCIS would take to adjudicate would be 30 days. USCIS also assumes that if this proposed rule is adopted, adjudications will align with DHS processing times achieved in FY 2017 (before the *Rosario* v. *USCIS* court order). This is our best estimate of what would occur if the proposed rule is adopted. USCIS believes the FY 2017 timeframes are sustainable and USCIS intends to meet these timeframes if the proposed rule is adopted. Therefore, USCIS is analyzing the impacts of this rule by comparing the costs and benefits of adjudicating initial EAD applications for pending asylum applicants within 30 days compared to the actual time it took to adjudicate these EAD applications in FY 2017.

The impacts of this rule would include both distributional effects (which are transfers) and costs.[25] The distributional impacts would fall on the asylum applicants who would be delayed in entering the U.S. labor force. The distributional impacts (transfers) would be in the form of lost compensation (wages and benefits). A portion of this lost compensation might be transferred from asylum applicants to others that are currently in the U.S. labor force, possibly in the form of additional work hours or overtime pay. A portion of the impacts of this rule would also be borne by companies that would have hired the asylum applicants had they been in the labor market earlier but were unable to find available workers. These companies would incur a cost, as they would be losing the productivity and potential profits the asylum applicant would have provided had the asylum applicant been in the labor force earlier. Companies may also incur opportunity costs by having to choose the next best alternative to immediately filling the job the asylum applicant would have filled. USCIS does not know what this next best alternative may be for those companies. As a result, USCIS does not know the portion of overall impacts of this rule that are transfers or costs. If companies can find replacement labor for the position the asylum applicant would have filled, this rule would have primarily distributional effects in the form of transfers from asylum applicants to others already in the labor market (or workers induced to return to the labor market). USCIS acknowledges that there may be additional opportunity costs to employers such as additional search costs. However, if companies cannot find reasonable substitutes for the labor the asylum applicants would have provided, this rule would primarily be a cost to these companies through lost productivity and profits. USCIS uses the lost compensation to asylum applicants as a measure of the overall impact of the rule—either as distributional impacts (transfers) or as a proxy for businesses' cost for lost productivity. It does not include additional costs to businesses for lost profits and opportunity costs or the distributional impacts for those in an applicant's support network. The lost compensation to asylum applicants could range from $255.88 million to $774.76 million annually depending on the wages the asylum applicant would have earned. The ten-year total discounted lost compensation to asylum applicants at 3 percent could range from $2,182.68 million to $6,608.90 million and at 7 percent could range from $1,797.17 million to $5,441.62 million (years 2019–2028). USCIS recognizes that the impacts of this proposed rule could be overstated if the provisions in the broader asylum EAD NPRM are finalized as proposed. Specifically, the broader asylum EAD NPRM would limit

[25] Transfer payments are monetary payments from one group to another that do not affect total resources available to society. See OMB Circular A–4 pages 14 and 38 for further discussion of transfer payments and distributional effects. Circular A–4 is available at: *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf.*

or delay eligibility for employment authorization for certain asylum applicants. Accordingly, if the population of aliens is less than estimated as a result of the broader asylum EAD rule, the estimated impacts of this rule could be overstated because the population affected may be lower than estimated in this rule.

In instances where a company cannot transfer additional work onto current employees and cannot hire replacement labor for the position the asylum applicant would have filled, USCIS acknowledges that delays may result in tax losses to the government. It is difficult to quantify income tax losses because individual tax situations vary widely [26] but USCIS estimates the potential loss to other employment tax programs, namely Medicare and social security which have a combined tax rate of 7.65 percent (6.2 percent and 1.45 percent, respectively).[27] With both the employee and employer not paying their respective portion of Medicare and social security taxes, the total estimated tax loss for Medicare and social security is 15.3 percent.[28] Lost wages ranging from $255.88 million to $774.76 million would result in employment tax losses to the government ranging from $39.15 million to $118.54 million.[29] Adding the lost compensation to the tax losses provide total monetized estimates of this proposed rule that range from $275.46 million to $834.03 million annually in instances where a company cannot hire replacement labor for the position the asylum applicant would have filled.[30] Again, depending on the circumstances of the employee, there could be additional federal income tax losses not estimated here. There may also be state and local income tax losses that would vary according to the jurisdiction.

This proposed rule would result in reduced opportunity costs to the Federal Government. Since *Rosario* compelled USCIS to comply with the 30-day provision in FY 2018, USCIS has redistributed its adjudication resources to work up to full compliance. If the 30-day timeframe is removed, these redistributed resources could be reallocated, potentially reducing delays in processing of other applications and avoiding costs associated with hiring additional employees. USCIS has not estimated these avoided costs. Additionally, USCIS does not anticipate that removing the separate 90-day EAD filing requirement would result in any costs to the Federal Government.

The proposed rule would benefit USCIS by allowing it to operate under long-term sustainable case processing times for initial EAD applications for pending asylum applicants, to allow sufficient time to address national security and fraud concerns, and to maintain technological advances in document production and identify verification. Applicants would rely on up-to-date processing times, which will provide accurate expectations of adjudication times. The technical change to remove the 90-day filing requirement would reduce confusion regarding EAD renewal requirements for pending asylum applicants and ensure the regulatory text reflects current DHS policy and regulations under DHS's final 2017 AC21 Rule.[31]

Table 4 provides a detailed summary of the regulatory changes and the expected impacts of this proposed rule.

[26] *See* More than 44 percent of Americans pay no federal income tax (September 16, 2018) available at *https://www.marketwatch.com/story/81-million-americans-wont-pay-any-federal-income-taxes-this-year-heres-why-2018-04-16*.

[27] The various employment taxes are discussed in more detail at *https://www.irs.gov/businesses/small-businesses-self-employed/understanding-employment-taxes. See IRS Publication 15, Circular E, Employer's Tax Guide for specific information on employment tax rates. https://www.irs.gov/pub/irs-pdf/p15_18.pdf*.

[28] Calculation: (6.2 percent social security + 1.45 percent Medicare) × 2 employee and employer losses = 15.3 percent total estimated tax loss to government.

[29] Calculations: Lower bound lost wages $255.88 million × 15.3 percent estimated tax rate = $39.15 million. Upper bound lost wages $774.76 million × 15.3 percent estimated tax rate = $118.54 million.

[30] Calculation: Lower bound lost wages $255.88 million + lower bound tax losses $19.58 million = total lower bound cost $275.46 million.

Upper bound lost wages $774.76 million + upper bound tax losses $59.27 million= total upper bound cost $834.03 million.

[31] In the 2017 AC21 final rule, 81 FR 82398, USCIS amended 8 CFR 274a.13 to allow for the automatic extension of existing, valid EADs for up to 180 days for renewal applicants falling within certain EAD categories as described in the regulation and designated on the USCIS website. *See* 8 CFR 274a.13(d). Among those categories is asylum applicants. To benefit from the automatic extension, an applicant falling within an eligible category must (1) properly file his or her renewal request for employment authorization before its expiration date, (2) request renewal based on the same employment authorization category under which the expiring EAD was granted, and (3) will continue to be authorized for employment based on his or her status, even after the EAD expires, and is applying for renewal under a category that does not first require USCIS to adjudicate an underlying application, petition, or request.

TABLE 4—SUMMARY OF PROPOSED PROVISIONS AND IMPACTS

Current provision	Proposed change to provision	Expected costs and transfers from proposed provision	Expected benefits from proposed provision
USCIS has a 30-day EAD adjudication timeframe for applicants who have pending asylum applications.	USCIS proposes to eliminate the provisions for the 30-day adjudication timeframe and issuance of EADs for pending asylum applicants.	*Quantitative:* This provision could delay the ability of some initial applicants to work. A portion of the impacts of the rule would be the lost compensation transferred from asylum applicants to others currently in the workforce, possibly in the form of additional work hours or overtime pay. A portion of the impacts of the rule would be lost productivity costs to companies that would have hired asylum applicants had they been in the labor market, but who were unable to find available workers. USCIS uses the lost compensation to asylum applicants as a measure of these distributional impacts (transfers) and as a proxy for businesses' cost for lost productivity. The lost compensation due to processing delays could range from $255.88 million to $774.76 million annually. The total ten-year discounted lost compensation for years 2019–2028 averages $4,395.79 million and $3,619.40 million at discount rates of 3 and 7 percent, respectively. USCIS does not know the portion of overall impacts of this rule that are transfers or costs. Lost wages ranging from $255.88 million to $774.76 million would result in employment tax losses to the government ranging from $39.15 million to $118.54 million. *Qualitative:* There may also be additional distributional impacts for those in an applicant's support network—if applicants are unable to work legally, they may need to rely on resources from family members, friends, non-profits, or government entities for support.	*Quantitative:* Not estimated. *Qualitative:* DHS would be able to operate under long-term sustainable case processing times for initial EAD applications for pending asylum applicants, to allow sufficient time to address national security and fraud concerns, and to maintain technological advances in document production and identity verification without having to add any resources. This rule would result in reduced opportunity costs to the Federal Government. If the 30-day timeframe is removed, USCIS could reallocate the resources it redistributed to comply with the 30-day provision, potentially reducing delays in processing of other applications and avoiding costs associated with hiring additional employees.
Applicants can currently submit a renewal EAD application 90 days before the expiration of their current EAD.	USCIS proposes to remove the 90-day submission requirement for renewal EAD applications.	*Quantitative:* None. *Quantitative:* None.	*Qualitative:* None. *Qualitative:* Applicants— • Reduces confusion regarding EAD renewal requirements. Some confusion may nonetheless remain if applicants consult outdated versions of regulations or inapplicable DOJ regulations. DHS/USCIS— • The regulations would be updated to match those of other EAD categories.

As previously discussed, USCIS does not know the portion of overall impacts of this rule that are transfers or costs, but estimates that the maximum monetized impact of this rule from lost compensation is $774.76 million annually. If all companies are able to easily find reasonable labor substitutes for the positions the asylum applicants would have filled, they will bear little or no costs, so $774.76 million will be transferred from asylum applicants to workers currently in the labor force or induced back into the labor force (we assume no tax losses as a labor substitute was found). Conversely, if companies are unable to find reasonable labor substitutes for the position the asylum applicant would have filled then $774.76 million is the estimated maximum monetized cost of the rule and $0 is the estimated minimum in monetized transfers from asylum applicants to other workers. In addition, under this scenario, because the jobs would go unfilled there would be a loss of employment taxes to the Federal Government. USCIS estimates $118.54 million as the maximum decrease in employment tax transfers from companies and employees to the Federal Government. The two scenarios described above represent the estimated endpoints for the range of monetized impacts resulting from this rule, and are summarized in Table 5 below.

TABLE 5—SUMMARY OF RANGE OF MONETIZED IMPACTS

Category	Description	Scenario: No replacement labor found for asylum applicants		Scenario: All asylum applicants replaced with other workers		Primary (half of the highest high for each row)
		Low wage	High wage	Low wage	High wage	
Cost	Lost compensation used as proxy for lost productivity to companies.	$255.88	$774.76	$0.00	$0.00	$387.38
Transfer	Compensation transferred from asylum applicants to other workers.	0.00	0.00	255.88	774.76	387.38
Transfer	Lost employment taxes paid to the Federal Government	39.15	118.54	0.00	0.00	59.27

As required by OMB Circular A–4, Table 6 presents the prepared A–4 accounting statement showing the costs and transfers associated with this proposed regulation. For the purposes of the A–4 accounting statement below, USCIS uses the mid-point as the primary estimate for both costs and transfers because the total monetized impact of the rule from lost compensation cannot exceed $774.76 million and as described, USCIS is unable to apportion the impacts between costs and transfers. Likewise, USCIS uses a mid-point for the reduction in employment tax transfers from companies and employees to the Federal Government when companies are unable to easily find replacement workers. USCIS notes that there may be some unmonetized costs such as additional opportunity costs to employers that would not be captured in these monetized estimates.

TABLE 6—OMB A–4 ACCOUNTING STATEMENT ($ MILLIONS, 2017)

[Period of analysis: 2019–2028]

Category	Primary estimate		Minimum estimate	Maximum estimate	Source citation (RIA, preamble, etc.)
Benefits					
Monetized Benefits	(7%) (3%)	N/A N/A	N/A N/A	N/A N/A	RIA. RIA.
Annualized quantified, but un-monetized, benefits		0	0	0	RIA.
Unquantified Benefits	Applicants would benefit from reduced confusion over renewal requirements. DHS would be able to operate under sustainable case processing times for initial EAD applications for pending asylum applicants, to allow sufficient time to address national security and fraud concerns, and to maintain technological advances in document production and identity verification.				RIA.
Costs					
Annualized monetized costs (discount rate in parenthesis)	(7%) (3%)	$387.38 $387.38	$0 $0	$774.76 $774.76	RIA. RIA.
Annualized quantified, but un-monetized, costs	N/A		N/A	N/A	RIA.
Qualitative (unquantified) costs	In cases where companies cannot find reasonable substitutes for the labor the asylum applicants would have provided, affected companies would also lose profits from the lost productivity. In all cases, companies would incur opportunity costs by having to choose the next best alternative to immediately filling the job the pending asylum applicant would have filled. There may be additional opportunity costs to employers such as additional search costs.		RIA.		
Transfers					
Annualized monetized transfers: ''on budget''	(7%) (3%)	$0 $0	$0 $0	$0 $0	RIA.
From whom to whom?	N/A				N/A.
Annualized monetized transfers: ''off-budget''	(7%) (3%)	$387.38 $387.38	$0 $0	$774.76 $774.76	RIA.
From whom to whom?	From asylum applicants to workers in the U.S. labor force or induced into the U.S. labor force. Additional distributional impacts from asylum applicant to the asylum applicant's support network that provides for the asylum applicant while awaiting an EAD.				RIA.
Annualized monetized transfers: ''off-budget''	(7%) (3%)	$59.27 $59.27	$0 $0	$118.54 $118.54	RIA.
From whom to whom?	A reduction in employment taxes from companies and employees to the Federal Government. There could also be a transfer of federal, state, and local income tax revenue.				

Category	Effects	Source citation (RIA, preamble, etc.)
Effects on state, local, and/or tribal governments	None; no significant impacts to national labor force or to the labor force of individual states is expected. Possible loss of tax revenue.	RIA.
Effects on small businesses	None	RFA.
Effects on wages	None	RIA.
Effects on growth	None	RIA.

2. Background and Purpose of the Proposed Rule

Aliens who are arriving or physically present in the United States generally may apply for asylum in the United States irrespective of their immigration status. To establish eligibility for asylum, an applicant must demonstrate, among other things, that they have suffered past persecution or have a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. Applicants, with limited exceptions, are required to apply for asylum within one year of their last arrival in the United States. USCIS does not currently charge filing fees for certain humanitarian benefits, including asylum applications and applications concurrently filed with asylum applications. Asylum applicants whose cases remain pending without a decision for at least 150 days are eligible to apply for employment authorization, unless any delays are caused by the applicant (such as a request to reschedule an interview). 8 CFR 208.7, 274a.12(c)(8), 274a.13(a)(2). Applicants who are granted asylum (''asylees'') may work immediately. *See* INA 208(c)(1)(B), 8 U.S.C. 1158(c)(1)(B). An asylee may choose to obtain an EAD for convenience or identification purposes, but this documentation is not necessary for an asylee to work. 8 CFR 274a.12(a)(5).

Currently, DHS regulations at 8 CFR 208.7(a)(1) provide that USCIS adjudicates a Form I–765 within 30 days of receiving a properly filed application from a pending asylum applicant. Asylum applicants must wait 150 days from the time of filing the asylum application before they can file a Form I–765. USCIS cannot grant employment authorization until the applicant has accumulated a total of 180 days, not including any delays caused or requested by the applicant, meaning the applicant's asylum case has been pending for a total of 180 days. 8 CFR 208.7(a)(1)–(2). This is known as the 180-Day Asylum EAD clock.[32] If USCIS approves the Form I–765, USCIS mails an EAD according to the mailing preferences indicated by the applicant. If USCIS denies the Form I–765, the agency sends a written notice to the applicant explaining the basis for denial.

However, if USCIS requires additional documentation from the applicant before a decision can be made, USCIS sends a request for evidence (RFE) and the 30-day processing timeframe for processing a Form I–765 is paused until additional documentation is received. Once USCIS receives all requested information in response to the RFE, the 30-day timeframe continues from the point at which it stopped. In some instances, applications may require additional vetting by the Background Check Unit (BCU) and the Center Fraud Detection Operations (CFDO), for instance, to verify an applicant's identity. The 30-day timeframe does not stop in these situations, though these cases may take longer than 30 days to process. USCIS would make a decision only after all eligibility and background checks relating to the EAD application have been completed.

DHS considers the 30-day adjudication timeframe to be outdated, as it no longer reflects current DHS operational realities. In the 20-plus years since the timeframe was established, there has been a shift to centralized processing as well as increased security measures, such as the creation of tamper-resistant EAD cards. These measures reduce opportunities for fraud but can require additional processing time, especially as filing volumes remain high. By eliminating the 30-day provision, DHS would be able to maintain accurate case processing times for initial EAD applications for pending asylum applicants since, prior to the *Rosario* v. *USCIS* court order, it was not meeting the 30-day regulatory timeframe most of the time (53 percent), to address national security and fraud concerns for those applications that require additional vetting through RFEs or referrals to BCU and/or CFDO, and to maintain technological advances in document production and identity verification that USCIS must fulfill as a part of its core mission within DHS such as the centralized production and creation of tamper-resistant cards.

As noted above, the need for this rule results in part from the resource burden associated with adjudicating, within the 30-day adjudication timeframe, a large number of initial Forms I–765 under the Pending Asylum Applicant category. The large number of applications results from a range of factors, such as recent growth in USCIS's asylum backlog, which USCIS continues to address through a number of different measures.

For example, in an effort to stem the growth of the agency's asylum backlog, USCIS returned to processing affirmative asylum applications on a ''last in, first out'' (LIFO) basis. Starting January 29, 2018, USCIS began prioritizing the most recently filed affirmative asylum applications when scheduling asylum interviews. The former INS first established this interview scheduling approach as part of asylum reforms implemented in January 1995 and it remained in place until December 2014. USCIS has returned to this approach in order to deter individuals from using asylum backlogs solely as a means to obtain employment authorization by filing frivolous, fraudulent or otherwise non-meritorious asylum applications. Giving priority to recent filings allows USCIS to promptly adjudicate asylum applications.[33]

Another possible effect of reinstating LIFO is that in the future, fewer affirmative asylum applications would remain pending before USCIS for 150 days. However, the majority of asylum

[32] *See* The 180-Day Asylum EAD Clock Notice (May 9, 2017) *https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Refugees%20%26%20Asylum/Asylum/Asylum_Clock_Joint_Notice_-_revised_05-10-2017.pdf.*

[33] USCIS now schedules asylum interviews based on three priority levels. First priority: Applications scheduled for an interview, but the interview had to be rescheduled at the applicant's request or the needs of USCIS. Second priority: Applications pending 21 days or less. Third priority: All other pending affirmative asylum applications, which will be scheduled for interviews starting with newer filings and working back towards older filings. *See* Affirmative Asylum Interview Scheduling (Jan. 26, 2018), available at *https://www.uscis.gov/humanitarian/refugees-asylum/asylum/affirmative-asylum-interview-scheduling.*

applications filed with USCIS have been referred to the Department of Justice Executive Office for Immigration Review (EOIR) for consideration of the asylum application by an immigration judge. In FY 2017, 53 percent of asylum filings processed by USCIS resulted in a referral to an immigration judge.[34] These applicants may be eligible to apply for an initial EAD under the (c)(8) category once the Asylum EAD Clock reaches 150 days. USCIS anticipates updating its data in the analysis accompanying the final rule. If this and other reforms are successful, such updated data may reflect a relative reduction in application volumes.

In the end, however, USCIS cannot predict with certainty how LIFO and other administrative measures, as well as external factors such as immigration court backlogs and changes in country conditions, will ultimately affect total application volumes and the attendant resource burdens on USCIS. In addition, in light of the need to accommodate existing vetting requirements and to maintain flexibility should trends change, USCIS believes that even if it could reliably project a reduction in total application volume, such reduction would not, on its own, serve as a sufficient basis to leave the 30-day adjudication timeframe in place.

Finally, once an EAD is approved under the (c)(8) Pending Asylum Applicant category, it is valid for two years and requires renewal to extend an applicant's employment authorization if the underlying asylum application remains pending.[35] Currently, DHS regulations at 8 CFR 208.7(d) require that USCIS must receive renewal applications at least 90 days prior to the employment authorization expiration.[36] Removing the 90-day requirement would bring 8 CFR 208.7(d) in line with 8 CFR 274a.13(d), as amended in 2017; such amendments automatically extend renewal applications for up to 180 days. Additionally, under the 2017 AC21 Rule, applicants eligible for employment authorization can have the validity of their EADs automatically extended for up to 180 days from the document's expiration date, if they (1) file before its expiration date, (2) are requesting renewal based on the same employment authorization category under which the expiring EAD was granted, and (3) will continue to be authorized for employment based on their status, even after the EAD expires and are applying for renewal under a category that does not first require USCIS to adjudicate an underlying application, petition, or request.

3. Population

In FY 2017, USCIS received a total of 142,760 affirmative filings of Form I–589 applications for asylum. The number of total receipts for asylum applicants has risen sharply over the last five years, increasing over 221 percent from FY 2013 to FY 2017 (Table 7). As the number of asylum applicants increases, the backlog continues to grow,[37] resulting in a greater number of people who are eligible to apply for EADs while they await adjudication of their asylum application.

TABLE 7—TOTAL ANNUAL FORM I–589 RECEIPTS RECEIVED FROM AFFIRMATIVE ASYLUM APPLICANTS[38]

Fiscal year	Total receipts
2013	44,453
2014	56,912
2015	84,236
2016	115,888
2017	142,760

Source: All USCIS Application and Petition Form Types, All Form Types Performance Data (Fiscal Year 2013–2017, 4th Qtr), *https://www.uscis.gov/tools/reports-studies/immigration-forms-data/data-set-all-uscis-application-and-petition-form-types*.

This larger number of applications strains resources, which leads to longer processing times for Form I–765 adjudication. Table 8 shows the total, initial, and renewal applications received for Form I–765 for asylum applicants for FYs 2013 to 2017.[39]

TABLE 8—TOTAL ANNUAL FORM I–765 RECEIPTS RECEIVED FROM PENDING ASYLUM APPLICANTS

Fiscal year	Total receipts *	Total initial receipts	Total renewal receipts
2013	79,571	41,021	37,861
2014	110,210	62,169	47,103
2015	180,196	106,030	72,559
2016	300,855	169,970	128,610
2017	478,721	261,782	212,255
Average	229,911	128,194	99,678

Source: USCIS, Office of Performance and Quality.
* Total receipts do not include replacement receipts. Therefore, initial and renewal receipts will not equal to total receipts.
Note: This data includes receipts received from both affirmative and defensive pending asylum applicants.

[34] *See* Notes from Previous Engagements, Asylum Division Quarterly Stakeholder Meeting (Feb. 7, May 2, Aug. 11, and Nov. 3, 2017), *https://www.uscis.gov/outreach/notes-previous-engagements?topic_id=9213&field_release_date_value%5Bvalue%5D%5Bmonth%5D=&field_release_date_value_1%5Bvalue%5D%5Byear%5D=&multiple=&items_per_page=10*.

[35] EADs issued prior to October 5, 2016 had a validity period of one year. *See* USCIS Increases Validity of Work Permits to Two Years for Asylum Applicants (Oct. 6, 2016), available at *https://www.uscis.gov/news/alerts/uscis-increases-validity-work-permits-two-years-asylum-applicants*.

[36] For renewal applications, a properly filed application for pending asylum applicants is one that is complete, signed, accompanied by all necessary documentation and the current filing fee of $410.

[37] As of June 2018, the asylum backlog was still increasing, but its growth rate has begun to stabilize.

[38] These numbers only address the affirmative asylum applications that fall under the jurisdiction of USCIS' Asylum Division. Defensive asylum applications, filed with the Department of Justice's Executive Office for Immigration Review (EOIR) are also eligible for (c)(8) EADs. There is an ongoing backlog of pending defensive asylum cases at EOIR, which has approximately 650,000 cases pending. *See* Memorandum from Jeff Sessions, Attorney General, *Renewing Our Commitment to the Timely and Efficient Adjudication of Immigration Cases to Serve the National Interest* (Dec. 5, 2017). The defensive asylum backlog at EOIR also contributes to an increase in both initial and renewal (c)(8) EAD applications.

[39] Since LIFO was reinstated at the end of January 2018, there is not yet enough data currently available to determine the impact on asylum applications or initial EAD applications. USCIS anticipates updating its data in the analysis accompanying the final rule. If this and other reforms are successful, such updated data may reflect a relative reduction in application volumes.

In FY 2017, USCIS received a total of 478,721 applications for Form I–765 from pending asylum applicants, with more than half as initial applications (261,782 or 54.7 percent). There were 212,255 renewal applications (44.3 percent) in FY 2017. This trend is similar across all five fiscal years. The five-year average of total applications received was 229,911, with five-year averages of 128,194 initial applications and 99,678 renewal applications.

For this analysis, USCIS does not use a trend line to forecast future projected applications because various factors outside of this rulemaking may result in either a decline or, conversely, a continued rise of applications received. For example, while the number of initial applicants and renewals has risen sharply over the last five years, DHS assumes the increase in initial EAD applications has some correlation with the increase in applications for asylum. As pending asylum applications increase, the length of time it takes to adjudicate those applications increases, and it is reasonable to assume that the number of applicants who seek employment authorization on the basis of that underlying asylum application would also rise. On the other hand, initial EAD applications may decline. For instance, USCIS' return to a LIFO interview schedule to process affirmative asylum applications, may help stem the growth of the agency's asylum backlog, and may result in fewer pending asylum applicants applying for an EAD. But USCIS cannot predict such an outcome with certainty at this time. Therefore, since DHS anticipates similar outcomes to those achieved in FY 2017, USCIS anticipates receiving approximately 478,721 Form I–765 applications annually from pending asylum applicants, with an estimated 261,782 initial applications and 212,255 renewal applications.

In order to analyze USCIS processing times for Form I–765, USCIS obtained data on completed initial applications, which included the length of time to complete adjudication and information on investigative factors that may prolong the adjudication process. Table 9 differentiates between initial applications that USCIS adjudicated within the 30-day timeframe in FY 2017 and those that it did not. The table also includes the initial applications that were adjudicated within a 60-day timeframe in FY 2017, along with the corresponding initial applications that required additional vetting. This additional vetting includes the issuance of RFEs and referrals for identity verification by the BCU and the CFDO, which can cause delays in processing. DHS notes that the 30-day timeframe pauses for RFEs but does not pause for BCU or CFDO checks. Delays could also be caused by rescheduled fingerprinting.

TABLE 9—PERCENTAGE OF COMPLETIONS FOR INITIAL FORM I–765 FOR PENDING ASYLUM APPLICANTS IN FY 2017

Number of days the initial application was pending	No additional vetting required (percent)		Additional vetting required (percent)		Total (percent)
	Approved initial applications	Denied initial applications	Approved initial applications	Denied initial applications	
0–30	42	2	3	0	47
31–60	22	2	6	1	31
Over 60	12	2	6	2	22
Total (percent)	76	5	16	3	100

Source: USCIS, Office of Performance and Quality.
Note: Additional vetting includes the applications issued an RFE, referred to BCU/CFDO and both.

In FY 2017, USCIS adjudicated within the 30-day timeframe just under half (47 percent) of all initial Form I–765 applications received. USCIS approved within 30 days 45 percent [40] of the initial applications received and denied 2 percent that did not require any additional vetting. Among the approved applications, only 3 percent of the total required additional vetting, while 42 percent did not. USCIS' completion rate within a 60-day timeframe increased to 78 percent overall, with 73 percent [41] of applications approved and 5 percent [42] denied. Only 10 percent [43] of applications adjudicated within 60 days required additional vetting, while the majority of approved applications did not (68 percent of the total).[44]

In FY 2017, prior to the *Rosario* v. *USCIS* court order, the majority of applications (53 percent) did not meet the required 30-day adjudication timeframe. In fact, it took up to 60 days for USCIS to adjudicate the majority of applications. For applications that require additional vetting, most applications took more than 30 days to adjudicate as well. ''Additional vetting'' cases include those where an RFE is issued, which pauses the regulatory processing time. The findings in Table 9 underscore that, while additional vetting and other delays may contribute to increased processing times, it may not be the only reason processing times have increased. It is likely that the increasing number of initial EAD applications is due to increasing asylum receipts, the asylum interview backlogs, and updated operations as outlined in the background of this proposed rule.

With the removal of the 30-day adjudication timeframe, DHS anticipates similar outcomes to those achieved in FY 2017. DHS's primary goal is to adequately vet applicants and adjudicate cases as quickly and efficiently as possible. DHS welcomes public comment on the above analysis, including the methodology used for the population estimates of this proposed rule and the analysis of processing times.

[40] Calculation of 30-day Approved: 42 (No Additional Vetting Percent Approved 0–30 days) + 3 (Additional Vetting Percent Approved 0–30 days) = 45 percent.

[41] Calculation of 60-day Approved: 42 (No Additional Vetting Percent Approved 0–30 days) + 22 (No Additional Vetting Percent Approved 31–60 days) + 3 (Additional Vetting Percent Approved 0–30 days) + 6 (Additional Vetting Percent Approved 31–60 days) = 73 percent.

[42] Calculation of 60-day Denied: 2 (No Additional Vetting Percent Denied 0–30 days) + 2 (No Additional Vetting Percent Denied 31–60 days) + 1 (Additional Vetting Percent Denied 31–60 days) = 5 percent.

[43] Calculation of 60-day Additional Vetting: 3 (Additional Vetting Percent Approved 0–30 days) + 6 (Additional Vetting Percent Approved 31–60 days) + 1 (Additional Vetting Percent Denied 31–60 days) = 10 percent.

[44] Calculation of 60-day No Additional Vetting: 42 (No Additional Vetting Percent Approved 0–30 days) + 22 (No Additional Vetting Percent Approved 31–60 days) + 2 (No Additional Vetting Percent Denied 0–30 days) + 2 (No Additional Vetting Percent Denied 31–60 days) = 68 percent.

4. Transfers, Costs and Benefits of This Proposed Rule

(1) Transfers and Costs

The proposed rule would remove the 30-day adjudication timeframe in order to better align with DHS processing times achieved in FY 2017. USCIS recognizes that removing the 30-day regulatory timeframe could potentially result in longer processing times for some applicants and in such situations, this could lead to potential delays in employment authorization for some initial EAD applicants. As described above, these delays would have both distributional effects (which are transfers) and costs. Any delay beyond the regulatory 30-day timeframe would prevent an EAD applicant, if his or her application were approved, from earning wages and other benefits until authorization is obtained. A portion of this lost compensation would be a distributional impact and considered a transfer from asylum applicants to others that are currently in the U.S. labor force, possibly in the form of additional work hours or overtime pay. In cases where companies that would have hired asylum applicants had they been in the labor market earlier are not able to find available workers, the lost compensation to asylum workers would be considered a proxy for the cost of lost productivity to those companies. However, USCIS does not know the portion of the overall impacts of this rule that are transfers or costs. One reason USCIS is unable to apportion these impacts is because the industries in which asylum applicants will work with their employment authorization is unknown; companies' responses to such a situation will vary depending on the industry and location of the company (*e.g.,* truck drivers are limited to the number of overtime hours they can work). Additional uncertainty in how companies will respond exists because while the official unemployment rate is low, there is still evidence of some labor market slack.[45] While USCIS is unable to apportion these impacts between transfers and costs, USCIS does use the lost compensation to asylum applicants, as described below, as a measure of these total impacts.

In FY 2017, the processing times for initial Form I–765 under the Pending Asylum Applicant category exceeded the regulatory set timeframe of 30 days more than half the time. However, USCIS adjudicated approximately 78 percent of applications within 60 days. To estimate lost wages and other benefits, USCIS used FY 2017 daily processing data. In FY 2017, USCIS adjudicated 119,088 approved applications[46] past the regulatory set timeframe. USCIS recognizes that pending asylum EAD applicants do not currently participate in the U.S. labor market, and, as a result, are not represented in national average wage calculations. Further, USCIS recognizes that pending asylum applicants who obtain an EAD are not limited to certain types of employment or occupations nor does USCIS track the type of employment applicants obtain. Because the Form I–765(c8) does not include or legally require, at the initial or renewal stage, any data on employment, and, since it does not involve an associated labor condition application (LCA), DHS has no information on wages, occupations, industries, or businesses that may involve such workers. In some DHS rulemakings, the estimates of distributional impacts and time-related opportunity costs are linked to the federal minimum wage for new entrants to the labor force. This reliance is grounded in the notion that most of the relevant EAD holders would not have been in the labor force long, and would thus not be expected to earn relatively high wages. In this proposed rulemaking, we rely on a slightly more robust ''prevailing'' minimum wage of $8.25. As is reported by the Economic Policy Institute (EPI, 2016), many states have their own minimum wage, and, even within states, there are multiple tiers.[47] Although the minimum wage could be considered a lower-end bound on true earnings, the prevailing minimum wage is fully loaded, at $12.05, which 13.8 percent higher than the federal minimum wage.[48] DHS does not rule out the possibility that some portion of the population might earn wages at the average level for all occupations, but without solid a priori information we believe that providing a range with the lower bound relying on the prevailing minimum wage is justifiable. Therefore, for the purpose of this analysis, USCIS uses both the prevailing minimum hourly wage rate of $8.25 to estimate a lower bound and a national average wage rate of $24.98[49] to take into consideration the variance in average wages across states as an upper bound.

In order to estimate the fully loaded wage rates, to include benefits such as paid leave, insurance, and retirement using the most recent Bureau of Labor Statistics (BLS) data, USCIS calculated a benefits-to-wage multiplier of 1.46[50] and multiplied it by the prevailing minimum hourly wage rate. The fully loaded per hour wage rate for someone earning the prevailing minimum wage rate is $12.05[51] and $36.47[52] for someone earning the average wage rate. Multiplying these fully loaded hourly wage rates by 8 to reflect an assumed 8-hour workday produces daily wage rates of $96.36 and $291.77,[53] respectively. USCIS also assumes that EAD holders would work 5 out of every 7 days, or an average of 21 days per month.

Using FY 2017 data, USCIS estimates that the 119,088 approved EAD applicants experienced an estimated

[45] See Bureau of Labor Statistics, *Employment Situation News Release,* Nov. 2, 2018, *https://www.bls.gov/news.release/archives/empsit_11022018.pdf.*

It reports that ''the number of persons employed part time for economic reasons (sometimes referred to as involuntary part-time workers) was essentially unchanged at 4.6 million in October. These individuals, who would have preferred full-time employment, were working part time because their hours had been reduced, or they were unable to find full-time jobs.'' It reports also that ''In October, 1.5 million persons were marginally attached to the labor force . . . These individuals were not in the labor force, wanted and were available for work, and had looked for a job sometime in the prior 12 months.''

[46] In FY 2017, USCIS adjudicated 15,860 denied (c)(8) EAD applications past the regulatory set timeframe. Since denied applicants would not obtain work authorization and would not lose working days, this population is not be impacted by this proposed rule and are therefore not included in the analysis for lost compensation.

[47] *See When it comes to the minimum wage, we cannot just 'leave it to the states'* (November 10, 2016) available at: *https://www.epi.org/publication/when-it-comes-to-the-minimum-wage-we-cannot-just-leave-it-to-the-states-effective-state-minimum-wages-today-and-projected-for-2020//.* There are multiple tiers of minimum wages across many states that apply to size of business (revenue and employment), occupations, working hours, and other criteria. Some of these variations per state are described at: *https://www.minimum-wage.org.*

[48] Calculations (1) for prevailing minimum wage: $8.25 Hourly wage × benefits burden of 1.46 = $12.05; for federal minimum wage: $7.25 hourly wage × benefits burden of 1.46 = $10.59. *See* Minimum Wage, U.S. Department of Labor available at *https://www.dol.gov/general/topic/wages/minimumwage;* (2) (($12.05 wage–$10.59 wage)/$10.59)) wage = .1378, which rounded and multiplied by 100 = 13.8 percent.

[49] The wage update in April 2018 reflects the 2017 average for all occupations nationally. The data are found at the BLS Occupational Employment and Wage Estimates, United States, found at: *https://www.bls.gov/oes/2018/may/oes_nat.htm#00-0000.*

[50] The benefits-to-wage multiplier is calculated by the Bureau of Labor Statistics (BLS) as follows: ($36.32 Total Employee Compensation per hour)/($24.91 Wages and Salaries per hour) = 1.458 (1.46 rounded). *See* U.S. Department of Labor, Bureau of Labor Statistics, Economic News Release, 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 (April 2019), available at *https://www.bls.gov/news.release/archives/ecec_03192019.pdf.*

[51] Calculation: $8.25 × 1.46 = $12.05 per hour.

[52] Calculation: $24.98 × 1.46 = $36.47 per hour.

[53] Calculations: $12.05 per hour × 8 hours = $96.36 per day; $36.47 per hour × 8 hours = $291.77 per day.

total 2,655,429 lost working days, and lost compensation could range from $255.88 million to $774.76 million.[54] USCIS understands that not all EAD recipients would work in minimum or average wage occupations, but provides these estimates as possible lower and upper bounds for approved applicants who would engage in full-time employment. Table 10 shows the number of applicants completed in a period longer than the 30-day regulatory timeframe in FY 2017, the associated number of lost working days, and an estimate of the resulting lost compensation. The two categories over 120 days show the declining number of applications that remain pending after 200 days and the maximum number of days it took to adjudicate an initial EAD completed in FY 2017, which was 810 calendar days.

TABLE 10—SUMMARY OF CALCULATIONS FOR INITIAL FORM I–765 FOR PENDING ASYLUM APPLICANTS IN FY 2017

	31–60 Days	61–90 Days	91–120 Days	121–200 Days	201–810 Days	Total
FY 2017 Completions	71,556	31,356	11,734	4,048	394	119,088
Lost Calendar Days	899,402	1,377,308	817,073	466,524	91,019	3,651,326
Lost Working Days	691,314	992,880	581,237	330,038	59,960	2,655,429
Lost Compensation (lower bound)	$66,615,017	$95,673,917	$56,007,997	$31,802,462	$5,777,746	$255,877,138
Lost Compensation (upper bound)	$201,702,197	$289,689,023	$169,585,427	$96,293,999	$17,494,313	$774,764,960

Source: USCIS analysis.

Note: To calculate lost compensation USCIS uses the fully-loaded wages based on the prevailing minimum wage to calculate the lower bound and a national average wage to calculate the upper bound.

If companies can find replacement labor for the position the asylum applicant would have filled, this rule would have primarily distributional effects in the form of transfers from asylum applicants to others already in the labor market (or workers induced to return to the labor market). USCIS acknowledges that there may be additional opportunity costs to employers such as additional search costs. However, if companies cannot find reasonable substitutes for the labor the asylum applicants would have provided, this rule would primarily be a cost to these companies through lost productivity. USCIS requests comments on how it can apportion these impacts between transfers and costs.

USCIS also recognizes that companies would incur additional costs not captured in the estimates of lost compensation above. In cases where companies cannot find reasonable substitutes for the labor the asylum applicants would have provided, affected companies would also lose profits from the lost productivity. In all cases, companies would incur opportunity costs by having to choose the next best alternative to immediately filling the job the pending asylum applicant would have filled.

USCIS continues to resource the adjudication of pending asylum EAD applications. In response to the *Rosario* v. *USCIS* litigation and to comply with the court order, USCIS has dedicated as many resources as practicable to these adjudications but continues to face an increasing asylum application backlog, which in turn increases the numbers of applicants eligible for pending asylum EADs. However, this reallocation of resources is not a long-term sustainable solution because USCIS has many competing priorities and many time-sensitive adjudication timeframes. Reallocating resources in the long-term is not sustainable due to work priorities in other product lines. USCIS could hire more officers, but that would not immediately and in all cases shorten adjudication timeframes because (1) additional time would be required to onboard and train new employees and (2) for certain applications, additional time is needed to fully vet an applicant, regardless of staffing levels. In addition, there is currently no fee for asylum applications or the corresponding initial EAD applications, and the cost of adjudication is covered by fees paid by other benefit requesters. USCIS is uncertain of the actual cost impacts of hiring additional adjudicators to process these EAD applications at this time. If the backlog dissipates in the future, USCIS may seek to redistribute adjudication resources. USCIS may also redistribute adjudication resources for other operational needs.

This proposed rule may result in a delay for some applicants to earn compensation if EAD processing is delayed beyond the 30-day regulatory timeframe. The lost compensation to asylum applicants could range from $255.88 million to $774.76 million annually, depending on the wages the asylum applicant would have earned. The ten-year total discounted costs at 3 percent could range from $2,182.68 million to $6,608.90 million and at 7 percent could range from $1,797.17 million to $5,441.62 million (years 2019–2028). USCIS recognizes that the impacts of this proposed rule could be overstated if the provisions in the broader asylum EAD NPRM are finalized as proposed.

In instances where a company cannot hire replacement labor for the position the asylum applicant would have filled, USCIS acknowledges that delays may result in tax revenue losses to the government. It is difficult to quantify income tax losses because individual tax situations vary widely[55] but USCIS estimates the potential loss to other employment tax programs, namely Medicare and social security which have a combined tax rate of 7.65 percent (6.2 percent and 1.45 percent respectively).[56] With both the employee and employer not paying their respective portion of Medicare and social security taxes, the total estimated tax loss for Medicare and social security is 15.3 percent.[57] Lost wages ranging from $255.88 million to $774.76 million would result in employment tax losses to the government ranging from $39.15 million to $118.54 million.[58] Again,

[54] Calculations: 2,655,429 lost working days * ($96.36 per day) = $255.88 million; 2,655,429 lost working days * ($291.77 per day) = $774.76 million.

[55] *See* More than 44 percent of Americans pay no federal income tax (September 16, 2018) available at *https://www.marketwatch.com/story/81-million-americans-wont-pay-any-federal-income-taxes-this-year-heres-why-2018-04-16.*

[56] The various employment taxes are discussed in more detail at *https://www.irs.gov/businesses/small-businesses-self-employed/understanding-employment-taxes.* See IRS Publication 15, Circular E, Employer's Tax Guide for specific information on employment tax rates. *https://www.irs.gov/pub/irs-pdf/p15_18.pdf.*

[57] Calculation: (6.2 Percent social security + 1.45 percent Medicare) × 2 employee and employer losses = 15.3 percent total estimated tax loss to government.

[58] Calculations: Lower bound lost wages $255.88 million × 15.3 percent employee tax rate = $39.15 million.

Upper bound lost wages $774.76 million × 15.3 percent employee tax rate = $118.54 million.

depending on the circumstances of the employee, there could be additional federal income tax losses not estimated here. There may also be state and local income tax losses that would vary according to the jurisdiction.

In addition to taxes, USCIS also considered the effects of this rule on USCIS resources. In response to the *Rosario* v. *USCIS* litigation and to comply with the court order, USCIS has dedicated as many resources as practicable to adjudications of initial EAD applications for pending asylum applicants, but continues to face a historic asylum application backlog, which in turn increases the numbers of applicants eligible for pending asylum EADs. However, this reallocation of resources is not a long-term, sustainable solution because USCIS has many competing priorities and many time-sensitive adjudication timeframes. Reallocating resources in the long-term is not sustainable due to work priorities in other product lines. Hiring more officers could bring improvements but that would not immediately shorten adjudication timeframes because additional time would be required to onboard new employees, and train them. In addition, there is currently no fee for asylum applications or the corresponding initial EAD applications, and the cost of adjudication is covered by fees paid by other benefit requesters. USCIS is uncertain of the actual cost impacts of hiring additional adjudicators to process these EAD applications at this time. Finally, USCIS has found that certain applications inherently cannot be processed in a specific number of days due to vetting procedures and background checks that simply require additional time (see Table 10 where processing days in FY 2017 reached a maximum 810 days). Therefore, meeting the 30-day timeframe does not solely depend on hiring more adjudication officers because for certain applications additional time is needed for processing. Thus, USCIS is proposing to remove the 30-day requirement rather than increasing the number of adjudication officers in the long-term.

This proposed rule would result in reduced opportunity costs to the Federal Government. Since *Rosario* compelled USCIS to comply with the 30-day provision in FY 2018, USCIS has redistributed its adjudication resources to work up to full compliance. If the 30-day timeframe is removed, these redistributed resources could be reallocated, potentially reducing delays in processing of other applications and avoiding costs associated with hiring additional employees. USCIS has not estimated these avoided costs.

DHS also acknowledges the distributional impacts associated with an applicant waiting for an EAD onto the applicant's support network. DHS assumes the longer an asylum applicant's EAD is delayed, the longer the applicant's support network is providing assistance to the applicant. DHS cannot determine how much monetary or other assistance is provided to such applicants. DHS requests comments from the public on any data or sources that demonstrate the amount or level of assistance provided to asylum applicants who have pending EAD applications. DHS welcomes any comments from the public on costs to applicants from removing the 30-day adjudication timeframe.

USCIS does not anticipate that removing the separate 90-day EAD filing requirement would result in any costs to applicants or the Federal Government, as it makes a procedural change that benefits the applicant. DHS also welcomes public comments on any costs resulting from the removal of the 90-day renewal requirement.

(2) Benefits

By eliminating the 30-day provision, DHS would be able to operate under long-term sustainable case processing times for initial EAD applications for pending asylum applicants, to allow sufficient time to address national security and fraud concerns, and to maintain technological advances in document production and identity verification that USCIS must fulfill as a part of its core mission within DHS.

Applicants would rely on up-to-date processing times, which provide realistic expectations of adjudication times.

This rule would end future litigation over the 30-day adjudication timeframe, such as the litigation referenced above. Even applications that are not subject to a set timeframe, however, could in some cases be the subject of litigation on ''unreasonable delay'' theories. And more important, as indicated above, as a primary goal, USCIS seeks to adequately vet applicants and adjudicate applications as quickly and efficiently as possible. DHS welcomes any public comments on the benefits described for the removal of the 30-day adjudication timeframe.

USCIS would benefit from the removal of the 90-day renewal requirement, because regulations would be updated to match that of other EAD categories and it would ensure that the regulatory text reflects current DHS policy and regulations under DHS's 2017 AC21 Rule. USCIS welcomes any public comment on the benefits of the removal of the 90-day renewal requirement.

(3) Labor Market Overview

As discussed in the population section of this analysis, USCIS anticipates receiving approximately 478,721 Form I–765 applications annually from pending asylum applicants with an estimated 261,782 initial applications and 212,255 renewal applications. Since this proposed rule would only affect initial applicants who experience potential delays in processing, USCIS estimates the affected population to be approximately 119,088 applications.[59] The U.S. labor force consists of a total of 162,981,000 workers, according to the recent data (June 2019).[60] Therefore, the population affected by this proposed rule represents 0.07 percent of the U.S. labor force, suggesting that the number of potential workers no longer expecting a 30-day processing timeframe make up a very small percentage of the U.S. labor market.[61] USCIS recognizes that unemployment rates have been historically low recently and the number of unemployed persons was 5,975,000 in June 2019, and so providing EADs to pending asylum applicants potentially fills an economic need as discussed previously.[62] However, USCIS must first be sufficiently assured of applicant eligibility and ensure all background and security checks are completed.

In any case, USCIS notes that this proposed rule does not introduce any newly eligible workers into the labor force, or permanently prevent any eligible workers from joining the labor force. This proposed rule only amends the processing of initial and renewal employment authorizations for pending asylum applicants. The ability of pending asylum applicants to be eligible for requesting employment authorization in certain circumstances is in existing regulations; this proposed

[59] In FY 2017, USCIS adjudicated 119,088 approved applications past the regulatory set timeframe.

[60] The BLS labor force data are found in Table A–1. Employment status of the civilian population by sex and age, seasonally adjusted, from the Current Population Survey July 2019 News Release: *https://www.bls.gov/news.release/archives/empsit_07052019.pdf.*

[61] Calculation: (119,088 approximate initial applicants who could experience processing delays per year/162,981,000 workers) *100 = 0.07 percent.

[62] The BLS labor force data are found in Table A–1. Employment status of the civilian population by sex and age, seasonally adjusted, from the Current Population Survey July 2019 News Release: *https://www.bls.gov/news.release/archives/empsit_07052019.pdf.*

rulemaking is not seeking to alter which pending asylum applicants are eligible to apply for employment authorization. Therefore, this proposed rule would not change the composition of the population of 229,911 estimated applicants who may apply for employment authorization or the number of workers entering the labor force; rather, this rule could delay 119,088 pending asylum applicants from entering the U.S. labor market by an average of approximately 31 days each, for a total of 3,651,326 days.[63] DHS welcomes public comment on this assessment of this proposed rule.

(4) Alternatives

(1) Alternative: 90-Day Regulatory Timeframe

DHS considered an alternative to the proposed removal of the 30-day regulatory timeframe, to instead extend the regulatory timeframe to 90 days. Currently, under the *Rosario* v. *USCIS* court order, USCIS must comply with its existing regulation requiring a 30-day timeframe and process all initial EAD applications for asylum applicants within 30 days. Under this alternative, USCIS would instead process all future applications within 90 days. In FY 2017, prior to the *Rosario* v. *USCIS* court order, USCIS was able to sustainably process approximately 47 percent of applications within 30 days. USCIS, therefore, assumes 47 percent of applicants would remain unaffected under this 90-day alternative. USCIS assumes the remaining 53 percent of applicants would have their processing time extended under this alternative. In FY 2017 there were a total of 119,088 approved applications for which processing took more than 30 days. USCIS assumes approved applications that were processed in 31–60 days, and 61–90 days in FY 2017 (71,556 and 31,356 applicants, respectively) would be processed in a similar amount of time under this alternative. For the 16,176 approved applications that took more than 90 days to process in FY 2017, USCIS assumes the processing time under this alternative would be 90 days, as this alternative would set the maximum processing time at 90 days. USCIS notes that while processing for this group under the 90-day alternative would be longer than the current 30-day processing time under the *Rosario* v. *USCIS* court order, it would be shorter as compared to the proposed rule, which proposes to remove any processing timeframe.[64]

Based on the analysis provided in the Transfers and Costs section, USCIS used FY 2017 daily processing data to estimate lost wages, lost taxes, and other benefits for this alternative proposal. In FY 2017, USCIS adjudicated 102,912 approved applications[65] between 31 and 90 days. USCIS estimates that under this alternative the 102,912 approved EAD applicants would have experienced an estimated total 1,684,194 lost working days, and lost compensation could have ranged from $158.82 million to $480.89 million[66] annually depending on the wages the asylum applicant would have earned. In FY 2017, USCIS adjudicated 16,176 approved applications in greater than 90 days. USCIS estimates that under this alternative the 16,176 approved EAD applicants would have experienced an estimated total 679,392 lost working days, and lost compensation could have ranged from $65.47 million to $198.23 million annually depending on the wages the asylum applicants would have earned. Table 11 shows the number of approved applications completed in more than 30 days in FY 2017, the associated number of lost working days, and an estimate of the resulting lost compensation.

TABLE 11—SUMMARY OF CALCULATIONS FOR INITIAL FORM I–765 FOR PENDING ASYLUM APPLICANTS IN FY 2017

	31–60 Days	61–90 Days	Greater than 90 days	Total
FY 2017 Completions	71,556	31,356	16,176	119,088
Lost Calendar Days	899,402	1,377,308	970,560	3,247,270
Lost Working Days	691,314	992,880	679,392	2,377,451
Lost Compensation (lower bound)	$66,615,017	$95,673,917	$65,466,213	$227,755,147
Lost Compensation (upper bound)	$201,702,197	$289,689,023	$198,223,758	$689,614,978

Source: USCIS analysis.
Note: The prevailing minimum wage is used to calculate the lower bound while a national average wage is used to calculate the upper bound lost compensation.

In addition to the lost wages, USCIS acknowledges that such processing delays may result in the loss in tax revenue to the government. Similar to the analysis in the Transfers and Costs section, USCIS estimates the potential loss to Medicare and social security. Lost wages ranging $227.76 million to $689.61 million would result in employment tax revenue losses to the government ranging from $34.85 million to $105.51 million annually.[67] Again, depending on the circumstances of the employee, there could be additional federal income tax losses not estimated here. There may also be state and local income tax losses that would vary according to the jurisdiction. The ten-year total discounted lost compensation to asylum applicants at 3 percent could range from $1,942.80 million to $5,882.56 million and at 7 percent could range from $1,599.66 million to $4,843.57 million (years 2019–2028). USCIS recognizes that the impacts of this alternative could be overstated if the provisions in the broader asylum EAD NPRM are finalized as proposed. Specifically, the broader asylum EAD NPRM would limit or delay eligibility for employment authorization for certain asylum applicants. Accordingly, if the population of aliens is less than estimated as a result of the broader asylum EAD rule, the estimated impacts of this alternative could be overstated because the population affected may be lower than estimated in this rule.

[63] Calculation: 3,654,326 total days/119,088 applicants = 31 days (rounded).

[64] In FY 2017, USCIS adjudicated 16,176 approved and 5,202 denied (c)(8) EAD applications in over 90 days.

[65] In FY 2017, USCIS adjudicated 10,658 denied (c)(8) EAD applications between 31 and 90 days. Since denied applicants would not obtain work authorization and would not lose working days, this population is not be impacted by this proposed rule and are therefore not included in the analysis for lost compensation.

[66] Calculations: 1,648,194 lost working days * ($96.36 per day) = $158.82 million; 1,648,194 lost working days * ($291.77 per day) = $480.89 million.

[67] Calculations: Lower bound lost wages $227.76 million × 15.3 percent employee tax rate = $34.85 million.

Upper bound lost wages $689.61 million × 15.3 percent employee tax rate = $105.51 million.

As previously discussed, USCIS does not know the portion of overall impacts of this rule that are transfers or costs, but estimates that the maximum monetized impact of this 90-day alternative from lost compensation is $689.61 million annually. Accordingly, if companies are unable to find reasonable labor substitutes for the position the asylum applicant would have filled then $689.61 million is the estimated maximum monetized cost of the rule and $0 is the estimated minimum in monetized transfers. Additionally, under this scenario, there would be a reduction of $105.51 million in employment tax transfers from companies and employees to the Federal Government. Conversely, if all companies are able to easily find reasonable labor substitutes, they will bear little or no costs, so $689.61 million will be transferred from asylum applicants to workers currently in the labor force or induced back into the labor force (we assume no tax losses as a labor substitute was found).

(2) Comparison of Alternatives

Currently, the *Rosario* v. *USCIS* court decision requires USCIS to process asylum EAD applications in 30 days. This rule proposes to remove any adjudication timeframe for processing future asylum EAD applications. USCIS also considered an alternative under which USCIS would process all future applications within 90 days. In the table below, USCIS compares the lost working days and associated lost compensation and taxes under the 90-day alternative with the proposed rule. As previously discussed, if companies can find replacement labor for the position the asylum applicant would have filled, the effects of this rule would be primarily transfers from asylum applicants to others already in the labor market (or induced to return). If companies cannot find reasonable substitutes, the rule would primarily be a cost to these companies through lost productivity and profits, and also result in a decrease in employment tax transfers from employees to the government. USCIS uses the lost compensation to asylum applicants as a measure of the overall impact of the rule—either as distribution impacts (transfers) or as a proxy for businesses' cost for lost productivity.

TABLE 12—COMPARISON OF ALTERNATIVES, USING FY 2017 ANNUAL DATA

	Number of applicants impacted by change (FY 2017)	Lost working days	Lost compensation (lower bound)	Lost compensation (upper bound)	Lost employment taxes when replacement labor is not found (lower bound)	Lost employment taxes when replacement labor is not found (upper bound)
Current 30-day Processing Timeframe (*i.e.*, no action baseline)	N/A	N/A	N/A	N/A	N/A	N/A
90-day Adjudication Timeframe Alternative	119,088	2,377,451	$227,755,147	$689,614,978	$34,846,537	$105,511,092
No Adjudication Timeframe (*i.e.*, Proposed Alternative)	119,088	2,655,429	255,877,138	774,764,960	39,149,202	118,539,039

Source: USCIS analysis.

The distribution of existing government resources would vary under the baseline, the proposed rule, and the 90-day alternative. When *Rosario* compelled USCIS to comply with the 30-day provision in FY 2018 (the baseline), USCIS redistributed its adjudication resources to work up to full compliance. If the 30-day timeframe is removed (the proposed rule), all of these redistributed resources could be reallocated back to the way they were pre-*Rosario* (which USCIS assumes will look like FY 2017). Under the 90-day alternative, some of the resources could be moved back, but not all of them because in FY 2017 USCIS was able to adjudicate 92 percent of applicants in 90 days.

DHS decided not to propose the 90-day alternative because although it would provide USCIS with more time to adjudicate initial EAD applications from pending asylum applicants and applicants with a new expected timeframe, it would not provide USCIS with the certainty and flexibility it needs to fulfill its core mission. Further, under DHS's final 2017 AC21 Rule, USCIS removed the 90-day timeframe for all other EAD categories. Maintaining any adjudication timeframe for this EAD would unnecessarily constrict adjudication workflows. Ultimately, USCIS is unable to plan its workload and staffing needs with the level of certainty that a binding timeframe may require, and has no way of predicting what national security and fraud concerns may be or what procedures would be necessary in the future. DHS therefore declined to adopt a 90-day regulatory timeframe, which would unnecessarily place operational constraints on adjudicators.

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'' refers to small businesses, not-for-profit organizations that are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.This proposed rule would continue to provide employment authorization to asylum applicants who voluntarily apply for such benefits. This proposed rule only removes the 30-day adjudication timeframe and the corresponding 90-day renewal requirement. For the purposes of the RFA, DHS estimates that approximately 119,088 individuals may be impacted by this proposed rule annually. Individuals are not considered by the RFA to be a small entity. As previously explained, this proposed rule may result in lost compensation for some initial applicants whose EAD processing is delayed beyond the 30-day regulatory timeframe. However, the proposed rule does not directly regulate employers.

The RFA does not require agencies to examine the impact of indirect costs to small entities. Regardless, DHS is unable to identify the next best alternative to hiring a pending asylum applicant and is therefore unable to reliably estimate the potential indirect costs to small entities from this proposed rule.

DHS requests comments from the public that would assist in understanding costs not described herein. An initial regulatory flexibility analysis follows.

(1) A description of the reasons why the action by the agency is being considered.

This proposed rule would remove the 30-day regulatory timeframe for the adjudication of initial EAD applications by pending asylum applicants because it is outdated, does not account for the recent volume of applications and no longer reflects current operations. The proposed rule would also make a technical change to remove the 90-day filing requirement to reduce confusion regarding EAD renewal requirements for pending asylum applicants and ensure the regulatory text reflects current DHS policy and regulations under DHS's final 2017 AC21 Rule.

(2) A succinct statement of the objectives of, and legal basis for, the proposed rule.

The authority of the Secretary of Homeland Security (Secretary) for these regulatory amendments is found in various sections of the Immigration and Nationality Act (INA), 8 U.S.C. 1101 *et seq.,* and the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135, 6 U.S.C. 101 *et seq.* General authority for issuing the proposed rule is found in section 103(a) of the INA, 8 U.S.C. 1103(a), which authorizes the Secretary to administer and enforce the immigration and nationality laws and to establish such regulations as she deems necessary for carrying out such authority. Further authority for the regulatory amendment in the final rule is found in section 208(d)(2) of the INA, 8 U.S.C. 1158(d)(2), which states an applicant for asylum is not entitled to employment authorization, and may not be granted asylum application-based employment authorization prior to 180 days after filing of the application for asylum, but otherwise authorizes the Secretary to prescribe by regulation the terms and conditions of employment authorization for asylum applicants.

The proposed rule would remove the 30-day adjudication timeframe in order to better align with DHS processing times achieved in FY 2017, reduce confusion regarding EAD renewal requirements and ensure the regulatory text reflects current DHS policy and regulations under DHS's final 2017 AC21 Rule.

(3) A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply.

This proposed rule would directly regulate pending asylum applicants, or individuals, applying for work authorization. However, DHS presents this IRFA as the proposed rule may indirectly impact small entities who incur opportunity costs by having to choose the next best alternative to immediately filling the job the asylum applicant would have filled. DHS cannot reliably estimate how many small entities may be indirectly impacted as a result of this proposed rule, but DHS believes the number of small entities directly regulated by this rule is zero.

(4) A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

This rule would not directly impose any reporting, recordkeeping, or other compliance requirements on small entities. Additionally, this rule would not require any additional professional skills.

(5) Identification, to the extent practicable, of all relevant federal rules that may duplicate, overlap or conflict with the proposed rule.

DHS is unaware of any relevant federal rule that may duplicate, overlap, or conflict with the proposed rule. Elsewhere in this preamble, DHS notes that notwithstanding the language of the parallel DOJ regulations in 8 CFR 1208.7, as of the effective date of a final rule, the revised language of 8 CFR 208.7(a)(1) and removal of 8 CFR 208.7(d) would be binding on DHS and its adjudications. DHS would not be bound by the 30-day provision of the DOJ regulations at 8 CFR 1208.7(a)(1). DOJ has no authority to adjudicate employment authorization applications. DHS has been in consultation with DOJ on this proposed rule, and DOJ may issue conforming changes at a later date.

(6) Description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.

DHS is not aware of any alternatives to the proposed rule that accomplish the stated objectives and that would minimize the economic impact of the proposed rule on small entities as this rule imposes no direct costs on small entities. DHS requests comments and seeks alternatives from the public that will accomplish the same objectives.

C. Congressional Review Act

This proposed rule is a major rule, as defined by 5 U.S.C. 804. Accordingly, absent exceptional circumstances, this rule, if enacted as a final rule, would be effective at least 60 days after the date on which Congress receives a report submitted by DHS under the Congressional Review Act, or 60 days after the final rule's publication, whichever is later.

D. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA) requires each federal agency to prepare a written statement assessing the effects of any federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by state, local, and tribal governments, in the aggregate, or by the private sector. The value equivalent of $100 million in 1995, adjusted for inflation to 2018 levels by the Consumer Price Index for All Urban Consumers (CPI–U), is $165 million.

Some private sector entities may incur a cost, as they could be losing the productivity and potential profits the asylum applicant could have provided had the asylum applicant been in the labor force earlier. Entities may also incur opportunity costs by having to choose the next best alternative to immediately filling the job the asylum applicant would have filled. In such instances, USCIS does not know if or to what extent this would impact the private sector, but assesses that such impacts would result indirectly from delays in employment authorization, and would not be a consequence of an enforceable duty. As a result, such costs would not be attributable to a mandate under UMRA. *See* 2 U.S.C. 658(6), (7) (defining a federal private sector mandate as, *inter alia,* a regulation that imposes an enforceable duty upon the private sector except for a duty arising from participation in a voluntary Federal program); 2 U.S.C. 1502(1). Similarly, any costs or transfer effects on state and local governments would not result from a mandate under UMRA. *See* 2 U.S.C. 658 (5), (6) (defining a federal intergovernmental mandate as, *inter alia,* a regulation that imposes an enforceable duty upon State, local, or tribal governments, except for a duty arising from participation in a voluntary Federal program); 2 U.S.C 1502(1). USCIS nonetheless welcomes public comment on potential UMRA impacts.

E. Executive Order 13132 (Federalism)

This proposed rule would not have substantial direct effects on the states, on the relationship between the Federal Government and the states, or on the distribution of power and

responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132 (Federalism), it is determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all agencies are required to submit to OMB, for review and approval, any reporting requirements inherent in a rule. *See* Public Law 104–13, 109 Stat. 163 (May 22, 1995). This rule does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act.

H. Family Assessment

DHS has assessed this action in accordance with section 654 of the Treasury General Appropriations Act, 1999, Public Law 105–277, Div. A. With respect to the criteria specified in section 654(c)(1), DHS has determined that the proposed rule may delay the ability for some initial applicants to work, which could decrease disposable income of families, as the lost compensation to asylum applicants could range from $255.88 million to $774.76 million annually depending on the wages the asylum applicant would have earned. For the reasons stated elsewhere in this preamble, however, DHS has determined that the benefits of the action justify the potential financial impact on the family. Further, the potential for lost compensation does not account for the fact that compliance with the 30-day timeframe is not sustainable in the long-term, as DHS has been unable to meet the 30-day processing timeframe in certain cases even with additional adjudication resources.

I. Executive Order 13175

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.

J. National Environmental Policy Act (NEPA)

DHS Directive (Dir) 023–01 Rev. 01 and Instruction (Inst) 023–01–001 Rev. 1 establish the policies and procedures that DHS and its components use to comply with NEPA and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, 40 CFR parts 1500–1508.

The CEQ regulations allow federal agencies to establish, with CEQ review and concurrence, categories of actions (''categorical exclusions'') which experience has shown do not individually or cumulatively have a significant effect on the human environment and, therefore, do not require an Environmental Assessment (EA) or Environmental Impact Statement (EIS). 40 CFR 1507.3(b)(1)(iii), 1508.4. Inst. 023–01–001 Rev. 01 establishes Categorical Exclusions that DHS has found to have no such effect. Inst. 023–01–001 Rev. 01 Appendix A Table 1. Inst. 023–01–001 Rev. 01 requires the action to satisfy each of the following three conditions: (1) The entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect. Dir. 023–01 Rev. 01 section V.B (1)–(3).

This proposed rule would remove the following purely administrative provisions from an existing regulation: (1) The 30-day adjudication provision for EAD applications filed by asylum applicants, and (2) the provision requiring pending asylum applicants to submit Form I–765 renewal applications 90 days before their employment authorization expires. 8 CFR 208.7(a)(1), (d).

Assuming that NEPA applies to this rule at all,[68] this rule falls within categorical exclusions number A3(a) in Inst. 023– 01–001 Rev. 01, Appendix A, Table 1: ''Promulgation of rules . . . strictly of an administrative or procedural nature'' and A3(d) for rules that interpret or amend an existing regulation without changing its environmental effect. This rule is not part of a larger action and presents no extraordinary circumstances creating the potential for significant environmental effects. Therefore, this proposed rule is also categorically excluded from further NEPA review.

[68] DHS reserves its position that NEPA generally does not apply to USCIS rules.

K. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standard bodies. This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

L. Executive Order 12630

This proposed rule would not cause the taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

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

Executive Order 13045 requires agencies to consider the impacts of environmental health risk or safety risk that may disproportionately affect children. DHS has reviewed this proposed rule and determined that this rule is not a covered regulatory action under Executive Order 13045. Although the rule is economically significant, it would not create an environmental risk to health or risk to safety that might disproportionately affect children. Therefore, DHS has not prepared a statement under this executive order.

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

Executive Order 13211 requires agencies to consider the impact of rules that significantly impact the supply, distribution, and use of energy. DHS has reviewed this proposed rule and determined that this proposed rule would not have a significant adverse effect on the supply, distribution, or use of energy. Therefore, this proposed rule does not require a Statement of Energy Effects under Executive Order 13211.

V. List of Subjects and Regulatory Amendments

List of Subjects in 8 CFR Part 208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, DHS proposes to amend part 208 of chapter I of title 8 of the Code of Federal Regulations as follows:

PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

■ 1. The authority citation for part 208 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1158, 1226, 1252, 1282; Title VII of Public Law 110–229; 8 CFR part 2.

§ 208.7 [Amended]

■ 2. Amend section 208.7 by:

■ a. In paragraph (a)(1), removing the words ''If the asylum application is not so denied, the Service shall have 30 days from the date of filing of the request employment authorization to grant or deny that application, except that no'' and adding, in their place, the word ''No'';

■ b. In paragraphs (a)(1) and (c)(3), emoving the words ''the Service'' and adding, in their place, the word ''USCIS''; and

■ c. Removing paragraph (d).

Kevin K. McAleenan,

Acting Secretary of Homeland Security.

[FR Doc. 2019–19125 Filed 9–6–19; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0675; Product Identifier 2019–NM–068–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., 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 Bombardier, Inc., Model DHC–8–401 and –402 airplanes. This proposed AD was prompted by a report that certain fuselages were delivered with non-conforming keel tension fittings and stringer end fittings. This proposed AD would require a detailed visual inspection of stringer end fittings and keel fittings for loose or working fasteners, signs of wear, and corrosion, and repair if necessary; and a general visual inspection of the keel tension fitting and stringer end fittings, as applicable and repairs and replacement of the keel and stringer end fittings if necessary. 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 24, 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 Bombardier, Inc., service information identified in this NPRM, 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.

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–2019–0675; 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: Andrea Jimenez, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7330; fax: 516–794–5531; email: *9-avs-nyaco-cos@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–2019–0675; Product Identifier 2019–NM–068–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 contact received about this NPRM.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2019–06, dated February 18, 2019 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model DHC–8–401 and –402 airplanes. The MCAI states:

> A disclosure letter from a supplier identified a number of fuselages that were delivered with non-conforming keel tension fittings and stringer end fittings. Left unaddressed, these non-conformances can lead to premature cracking in several locations, corrosion, and compromise the structural integrity of the fuselage joints.
>
> This [Canadian] AD requires a one-time inspection of the non-conforming fittings [and repair if necessary], and later [an inspection of the fittings and, if necessary,] replacement of the fittings [or repair].

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–2019–0675.

Related Service Information Under 1 CFR Part 51

Bombardier has issued the following service information.

- Service Bulletin 84–53–74, dated August 29, 2018. This service information describes procedures for a general visual inspection of the keel and stringer end fittings, repair, and replacement of the keel and stringer end fittings.

• Service Bulletin 84–53–75, dated August 29, 2018. This service information describes procedures for a detailed visual inspection of stringer end fittings and keel fittings, in the passenger compartment at stations X373.15 and X428.50, for loose or working fasteners, signs of wear, and corrosion.

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

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to a bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because the agency evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed Requirements of This NPRM

This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

The FAA estimates that this proposed AD affects 1 airplane of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
33 work-hours × $85 per hour = $2,805	$0	$2,805	$2,805

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

ESTIMATED COSTS OF ON-CONDITION REPLACEMENTS

Labor cost	Parts cost	Cost per product
46 work-hours × $85 per hour = $3,910	$54,649	$58,559

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):

Bombardier, Inc.: Docket No. FAA–2019–0675; Product Identifier 2019–NM–068–AD.

(a) Comments Due Date

The FAA must receive comments by October 24, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model DHC–8–401 and -402 airplanes, certificated in any category, serial numbers 4327, 4330, 4337, 4342, 4350, 4352, 4362, 4367, 4372, 4375, 4376, 4378, 4383, 4384, 4385, 4388, 4391, 4392, 4396, and 4397.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by a report that certain fuselages were delivered with non-conforming keel tension fittings and stringer end fittings. The FAA is issuing this AD to address non-conforming keel tension fittings and stringer end fittings which could lead to premature cracking in several locations, corrosion, and compromise the structural integrity of the fuselage joints.

(f) Compliance

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

(g) Detailed Visual Inspection of the Stringer End Fittings and Keel Fittings and Repair

Within 8,000 flight hours or 5 years after the effective date of this AD, whichever occurs first: Do a detailed visual inspection of the stringer end fittings and keel fittings at fuselage stations X373.15 and X428.50 for loose and working fasteners, signs of wear, and corrosion in accordance with paragraph 3.B. of the Accomplishment Instructions of Bombardier Service Bulletin 84–53–75, dated August 29, 2018. If any loose or working fasteners, signs of wear, or corrosion are found during any inspection required by this paragraph, 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. Doing the actions specified in Bombardier Service Bulletin 84–53–66 does not constitute compliance with the actions specified in this paragraph.

(h) General Visual Inspection, Repair, and Replacement of the Stringer End Fittings and Keel Fittings

Except for airplanes identified in paragraph (i) of this AD: Before accumulating 40,000 total flight cycles or within 12 months after the effective date of this AD, whichever occurs later, do the inspections specified in paragraphs (h)(1) and (2) of this AD.

(1) Do a general visual inspection of the keel tension fittings at fuselage stations X373.15 and X428.50 for non-conformance conditions (oversize, elongated, and off angle conditions) in accordance with paragraph 3.B. of the Accomplishment Instructions of Bombardier Service Bulletin 84–53–74, dated August 29, 2018. If any non-conformance condition is found, before further flight, replace the keel tension fittings at fuselage stations X373.15 and X428.50, including doing all applicable repairs, in accordance with paragraph 3.B. of the Accomplishment Instructions of Bombardier Service Bulletin 84–53–74, dated August 29, 2018; except where Bombardier Service Bulletin 84–53–74, dated August 29, 2018, specifies to contact Bombardier, before further flight, repair using a method approved by the Manager, New York ACO Branch, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

(2) Do a general visual inspection of the stringer end fittings at fuselage stations X373.15 and X428.50 for non-conformance conditions (*i.e.,* excessive depth Hi-Lite fastener hole chamfers and installation too close to the fillet radius), in accordance with paragraph 3.B. of the Accomplishment Instructions of Bombardier Service Bulletin 84–53–74, dated August 29, 2018. If any non-conformance condition is found, before further flight, replace the stringer end fittings at fuselage stations X373.15 and X428.50, including doing all applicable repairs and an eddy current or fluorescent dye penetrant inspection for cracks of all blended areas and fasteners, in accordance with paragraph 3.B. of the Accomplishment Instructions of Bombardier Service Bulletin 84–53–74, dated August 29, 2018; except where Bombardier Service Bulletin 84–53–74, dated August 29, 2018, specifies to contact Bombardier, before further flight, repair using a method approved by the Manager, New York ACO Branch, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

(i) Rework for Airplanes That Have Accomplished Bombardier Service Bulletin 84–53–69 Prior to the Effective Date of This AD

For airplanes on which the actions specified in Bombardier Service Bulletin 84–53–69 have been accomplished prior to the effective date of this AD: Before accumulating 40,000 total flight cycles or within 12 months after the effective date of this AD, whichever occurs later, do a general visual inspection of the stringer end fittings at fuselage stations X373.15 and X428.50 for non-conformance conditions (*i.e.,* excessive depth Hi-Lite fastener hole chamfers and installation too close to the fillet radius) in accordance with paragraph 3.B. of the Accomplishment Instructions of Bombardier Service Bulletin 84–53–74, dated August 29, 2018. If any non-conformance condition is found, before further flight, replace the stringer end fittings at fuselage stations X373.15 and X428.50, including doing all applicable repairs and an eddy current or fluorescent dye penetrant inspection for cracks of all blended areas and fasteners, in accordance with paragraph 3.B. of the Accomplishment Instructions of Bombardier Service Bulletin 84–53–74, dated August 29, 2018; except where Bombardier Service Bulletin 84–53–74, dated August 29, 2018, specifies to contact Bombardier, before further flight, repair using a method approved by the Manager, New York ACO Branch, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Corrective Action for Eddy Current and Fluorescent Dye Penetrant Inspections

If, during any eddy current or fluorescent dye penetrant inspection required by paragraph (h)(2) or (i) of this AD, any cracking is found, before further flight, repair using a method approved by the Manager, New York ACO Branch, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

(k) 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; phone: 516–228–7300; fax: 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2019–06, dated February 18, 2019, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0675.

(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; phone: 516–228–7330; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov*.

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

Issued in Des Moines, Washington, on August 30, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–19295 Filed 9–6–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0674; Product Identifier 2019–NM–079–AD]

RIN 2120–AA64

Airworthiness Directives; 328 Support Services GmbH (Type Certificate Previously Held by AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH) 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 328 Support Services GmbH Model 328–100 airplanes. This proposed AD was prompted by a report of missing rivets on landing flap support arm 2. This proposed AD would require an inspection of the landing flap support arms for missing rivets and corrective actions if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 24, 2019.

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

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

For the material identified in this proposed AD that will be incorporated by reference (IBR), contact the EASA, at Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 89990 1000; email: *ADs@easa.europa.eu;* internet: *www.easa.europa.eu*. You may find this IBR material on the EASA website at *https://ad.easa.europa.eu*. You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0674.

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–2019–0674; 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: Todd Thompson, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3228.

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–2019–0674; Product Identifier 2019–NM–079–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0096, dated April 30, 2019 (''EASA AD 2019–0096'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain 328 Support Services GmbH Model 328–100 airplanes. The MCAI states:

Missing rivets on landing flap support arm 2 were noticed by Dornier Fairchild Quality Assurance. The landing flap support arm manufacturer did not install the rivets on flap arms installed on Group 1 aeroplanes.

This condition, if not detected and corrected, could lead to the loss of one of two load paths, reducing the fatigue life of the affected flap arms.

To address this unsafe condition, Fairchild-Dornier issued the SB [Dornier Service Bulletin SB–328–57–239] to provide modification instructions for certain aeroplanes and, consequently, [Luftfahrt-Bundesamt] (LBA) Germany issued AD 97–328 [which corresponds to FAA AD 98–23–16, Amendment 39–10884 (63 FR 63397, November 13, 1998) (''AD 98–23–16'')] to require installation of two fasteners on the affected landing flap arms.

Since that [LBA Germany] AD was issued, during a scheduled maintenance inspection of a Group 2 aeroplane (not affected by the LBA Germany AD), missing rivets were identified, indicating that some Group 2 aeroplanes may not have been retrofitted during production.

For the reasons described above, this [EASA] AD retains the requirements of LBA Germany AD 97–328, which is superseded, requires a one-time inspection of Group 2 aeroplanes and, depending on findings, installation of two fasteners on the flap support arms.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0096 describes procedures for an inspection of the landing flap support arms for missing rivets, which includes a special detailed inspection (eddy current) of the landing flap support 2 along the edges and around the rivets for cracks, and corrective actions. Corrective actions include installing rivets and repairing cracks.

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

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2019–0096 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD and except as discussed under ''Differences Between this Proposed AD and the MCAI.''

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2019–0096 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2019–0096 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2019–0096 that is required for compliance with EASA AD 2019–0096 will be available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0674 after the FAA final rule is published.

Differences Between This Proposed AD and the MCAI

The applicability of EASA AD 2019–0096, dated April 30, 2019, includes 328 Support Services GmbH Model 328–100 airplanes serial numbers 3032 through 3086 inclusive. However, the applicability of this proposed AD only includes 328 Support Services GmbH Model 328–100 airplanes serial numbers 3032 through 3063 inclusive. The FAA issued AD 98–23–16 to correct the unsafe condition for 328 Support Services GmbH Model 328–100 airplanes serial numbers 3064 through 3086 inclusive.

EASA AD 2019–0096 did not state a corrective action if any cracking is found during the required inspection. This proposed AD would require repair of any cracking.

Costs of Compliance

The FAA estimates that this proposed AD affects 22 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
6 work-hours × $85 per hour = $510	$0	$510	$11,220

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

ESTIMATED COSTS OF ON-CONDITION INSTALLATION

Labor cost	Parts cost	Cost per product
4 work-hours × $85 per hour = $340	$27	$367

The FAA has received no definitive data that would enable the FAA to provide cost estimates for the on-condition crack 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):

328 Support Services GmbH (Type Certificate Previously Held by AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH): Docket No. FAA–2019–0674; Product Identifier 2019–NM–079–AD.

(a) Comments Due Date

The FAA must receive comments by October 24, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to 328 Support Services GmbH Model 328–100 airplanes, certificated in any category, serial numbers 3032 through 3063 inclusive.

(d) Subject

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

(e) Reason

This AD was prompted by a report of missing rivets on landing flap support arm 2. The FAA is issuing this AD to address missing rivets, which could lead to the loss of one of two load paths, reducing the fatigue life of the affected flap arms and leading to fatigue cracking of the support arms of the flaps, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2019–0096, dated April 30, 2019 (''EASA AD 2019–0096'').

(h) Exceptions to EASA AD 2019–0096

(1) For purposes of determining compliance with the requirements of this AD: Where EASA AD 2019–0096 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0096 does not apply to this AD.

(i) Corrective Action for Cracking

If any crack is found during any inspection required by paragraph (2) of EASA AD 2019–0096: Before further flight, repair using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the EASA; or 328 Support Services GmbH's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(j) No Reporting Requirement

Although the service information referenced in EASA AD 2019–0096 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (l)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or 328 Support Services GmbH's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(l) Related Information

(1) For information about EASA AD 2019–0096, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 89990 6017; email: *ADs@easa.europa.eu;* Internet: *www.easa.europa.eu*. You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu*. You may view this EASA AD at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. EASA AD 2019–0096 may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0674.

(2) For more information about this AD, contact Todd Thompson, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3228.

Issued in Des Moines, Washington, on August 30, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–19297 Filed 9–6–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–104554–18]

RIN 1545–B078

Advance Payments for Goods, Services, and Other Items

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations regarding the timing of income inclusion under section 451 of the Internal Revenue Code (Code) of advance payments for goods, services, and certain other items. The proposed regulations reflect changes made by the Tax Cuts and Jobs Act. These proposed regulations affect taxpayers that use an accrual method of accounting and receive advance payments.

DATES: Written or electronic comments or a request for a public hearing must be received by November 8, 2019.

ADDRESSES: Submit electronic submissions via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–104554–18) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment received to its public docket, whether submitted electronically or in hard copy. Send hard copy submissions to Internal Revenue Service, CC:PA:LPD:PR (REG–104554–18), Room 5205, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to Courier's Desk, Internal Revenue Service,

CC:PA:LPD:PR (REG–104554–18), 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Concerning this proposed regulation, Peter E. Ford, (202) 317–7003; concerning submission of comments or a request for a public hearing, Regina L. Johnson, (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to 26 CFR part 1 under section 451(c). On December 22, 2017, section 451(c) was amended by section 13221 of the Tax Cuts and Jobs Act, Public Law 115–97 (131 Stat. 2054) (the Act), to provide that a taxpayer using an accrual method of accounting (accrual method taxpayer) with an applicable financial statement (AFS) may use the deferral method of accounting provided in section 451(c) for advance payments. These proposed regulations also provide a deferral method of accounting for taxpayers that do not have an AFS. Unless otherwise indicated, all references to section 451(c) in this preamble are to section 451(c), as amended by the Act.

In general, section 451 provides that the amount of any item of gross income is included in gross income for the taxable year in which it is received by the taxpayer, unless, under the method of accounting used in computing taxable income, the amount is to be properly accounted for as of a different period. Under § 1.451–1, accrual method taxpayers generally include items of income in gross income in the taxable year when all the events occur that fix the right to receive the income and the amount of the income can be determined with reasonable accuracy (the all events test). All the events that fix the right to receive income occur when (1) the required performance takes place, (2) payment is due, or (3) payment is made, whichever happens first. See Revenue Ruling 2003–10 (2003–1 CB 288); Revenue Ruling 84–31 (1984–1 CB 127); Revenue Ruling 80–308 (1980–2 CB 162). Section 451(c) requires an accrual method taxpayer who receives an advance payment to include the amount thereof in income in the taxable year of receipt. Section 451(c) also generally codifies the current deferral method of accounting for certain advance payments for goods, services, and other specified items provided by the IRS under Revenue Procedure 2004–34 (2004–22 IRB 991) by allowing accrual method taxpayers to elect to defer the inclusion of income associated with certain advance payments to the taxable year following the taxable year of receipt if such income also is deferred for AFS purposes.

On April 12, 2018, the Treasury Department and the IRS issued Notice 2018–35 (2018–18 IRB 520) requesting, in part, comments on future guidance under section 451(c). The record of public comments received in response to Notice 2018–35 may be requested by sending an email to *Notice.comments@irscounsel.treas.gov*. This document provides guidance on the application of section 451(c), taking into account comments that were received regarding section 451(c). The application of section 451(c) is addressed in separate guidance published in the same issue of the **Federal Register** as these proposed regulations.

Explanation of Provisions

These proposed regulations describe and clarify the statutory requirements of section 451(c) by providing new § 1.451–8.

1. Deferral Methods Under § 1.451–8

A. AFS Deferral Method

Consistent with section 451(c)(1)(A), these proposed regulations provide that an accrual method taxpayer with an AFS includes an advance payment in gross income in the taxable year of receipt unless the taxpayer uses the deferral method in section 451(c)(1)(B) and proposed § 1.451–8(c) (AFS deferral method). A taxpayer using the AFS deferral method must have an AFS, as described in section 451(b)(1)(A)(i) or (ii). These proposed regulations define the term AFS by reference to the definition of that term in proposed § 1.451–3(c)(1) (REG–104870–18). Under the AFS deferral method, a taxpayer with an AFS that receives an advance payment must include: (i) The advance payment in income in the taxable year of receipt, to the extent that it is included in revenue in its AFS, and (ii) the remaining amount of the advance payment in income in the next taxable year. The AFS deferral method provided in these proposed regulations closely follows the deferral method of Revenue Procedure 2004–34, as modified by Revenue Procedure 2011–14 (2011–4 IRB 330), and as modified and clarified by Revenue Procedure 2011–18 (2011–5 IRB 443), and Revenue Procedure 2013–29 (2013–33 IRB 141) (Revenue Procedure deferral method). Because new section 451(c)(1)(B) was intended to generally codify the Revenue Procedure deferral method, the Treasury Department and the IRS believe that rules similar to the Revenue Procedure deferral method are necessary and appropriate for the proper application of section 451(c). *See* H.R. Rep. No. 115–466, at 429 (2017) (Conf. Rep.).

B. Non-AFS Deferral Method

Section 451(c)(4)(A) generally defines an advance payment as any payment the full inclusion of which in gross income of the taxpayer for the year of receipt is a permissible method of accounting, any portion of which is included in revenue by the taxpayer in an AFS, and which is for goods, services, or other items identified by the Secretary. One commenter noted that the financial statement requirement within the definition of an advance payment means that the rule in Revenue Procedure 2004–34 that depended on determining when the advance payment was earned was not within the statutory text of section 451(c). The Treasury Department and the IRS have concluded that section 451(c) does not prohibit a deferral method that is otherwise permissible under Revenue Procedure 2004–34. *See* H.R. Rep. No. 115–466, at 429 (2017) (Conf. Rep.). See also, Joint Committee on Taxation, General Explanation of Public Law 115–97 (JCS–1–18) at 170–171 (Dec. 20, 2018). Revenue Procedure 2004–34 permitted non-AFS taxpayers to use the Revenue Procedure deferral method based on when the income is earned (earned standard). *See* section 5.02(3)(b) of Revenue Procedure 2004–34. The Revenue Procedure deferral method using the earned standard is a permissible method of accounting for non-AFS taxpayers and, therefore, these proposed regulations also provide a similar deferral method for non-AFS taxpayers in proposed § 1.451–8(d) (non-AFS deferral method). Under the non-AFS deferral method, an accrual method taxpayer without an AFS that receives an advance payment must include: (i) The advance payment in income in the taxable year of receipt, to the extent that it is earned, and (ii) the remaining amount of the advance payment in income in the next taxable year.

2. Definition of Advance Payment

A. In General

Section 451(c)(4)(A) generally defines advance payment as any payment (i) the full inclusion of which in gross income of the taxpayer for the taxable year of receipt is a permissible method of accounting, (ii) any portion of which is included in revenue by the taxpayer in an AFS (or such other financial statement as the Secretary may specify)

for a subsequent taxable year, and (iii) which is for goods, services, or such other items as may be identified by the Secretary.

Proposed § 1.451–8(b)(1)(i) clarifies that the definition of advance payment under the AFS and non-AFS deferral methods is consistent with the definition of advance payment in Revenue Procedure 2004–34, which section 451(c) was meant to codify. See H.R. Rep. No. 115–466, at 429 (2017) (Conf. Rep.). The Treasury Department and the IRS believe this definition of advance payment: (1) Is consistent with section 451(c), (2) minimizes additional tax compliance burden and cost, (3) provides clarity to taxpayers, and (4) uses rules which are familiar to both taxpayers and the IRS.

Two commenters suggested that airline miles be explicitly included in the list of items for which an advance payment may be received. The commenters suggested that airline miles are a unique type of item, generally redeemed for air travel and non-travel rewards. The Treasury Department and the IRS decline to specifically include airline miles in the definition of advance payment because the use of the deferral method under these proposed regulations, to the extent airline miles are redeemable for goods or services, is already permissible. Therefore, these proposed regulations include examples to illustrate that, to the extent certain reward points are treated as separate performance obligations, they may be eligible for the deferral methods provided under these proposed regulations.

Another commenter suggested that progress payments with respect to the sale of an interest in real property should be included in the definition of an advance payment. Revenue Procedure 2004–34 was intended to provide a simplified and consistent deferral period for the sale of goods, services, and other items. However, the definition of advance payment in Revenue Procedure 2004–34 does not include prepayments for interests in real property. These proposed regulations generally provide the same types of items in the definition of advance payment to those items provided in Revenue Procedure 2004–34. However, the Treasury Department and IRS will consider any comments received in determining whether it is appropriate to include additional types of items in the definition of advance payment.

B. Items Excluded From the Definition of an Advance Payment

Section 451(c)(4)(B) provides that certain items, except as otherwise provided by the Secretary, are to be excluded from the definition of an advance payment. Pursuant to section 451(c)(4)(B), the term advance payment does not include rent; insurance premiums governed by subchapter L; payments with respect to financial instruments; payments with respect to certain warranty or guaranty contracts; payments subject to section 871(a), 881, 1441, or 1442; payments in property to which section 83 applies; and other payments identified by the Secretary.

Several commenters requested that certain payments for certain types of goods be excluded from the definition of an advance payment under section 451(c)(4)(B). A commenter requested that certain pre-delivery payments for the sale of high-value customer-configured equipment that will be delivered to customers at reasonably certain times not be included in the definition of advance payment. Another commenter requested that an exclusion be provided for goods for which (i) a taxpayer receives a payment in a taxable year with respect to a contract for the sale of goods not properly includible in such taxpayer's finished goods inventory, and (ii) on the last day of such taxable year the taxpayer does not have on hand (or available to it in such year through its normal source of supply) goods of a substantially similar kind and in a sufficient quantity to satisfy the contract during such contract year. This commenter suggested a narrowing of this exclusion could be done according to whether a good is commercially significant or of high-value. A commercially significant good has a useful life equal to or in excess of 10 years and it is developed, marketed, and sold to customers in the aerospace industry. Generally these goods require a significant amount of capital to produce and may require considerable time from development to delivery. Generally, for financial statement purposes, such manufacturers recognize revenue related to these goods when the product is completed and delivered to the customer and title and risk of loss have transferred to the customer.

Proposed § 1.451–8(b)(1)(ii) provides a list of items excluded from the definition of advance payment that is similar to Revenue Procedure 2004–34. An additional exclusion is provided for payments received in a taxable year earlier than the taxable year immediately preceding the taxable year of the contractual delivery date for a specified good, as defined in § 1.451–8(b)(9). In response to the comments received, the Treasury Department and IRS have determined that an exclusion is appropriate for certain goods for which a taxpayer requires a customer to make an upfront payment under the contract if (i) the contracted delivery month and year of the good occurs at least two taxable years after an upfront payment, (ii) the taxpayer does not have the good or a substantially similar good on hand at the end of the year the upfront payment is received, and (iii) the taxpayer recognizes all of the revenue from the sale of the good in its AFS in the year of delivery.

The Treasury Department and the IRS have employed the authority granted to the Secretary in section 451(c)(4)(B)(vii) to exclude certain payments, in a limited manner, that would otherwise constitute advance payments within the meaning of section 451(c)(4)(A), in response to the proposals described in comments already received. In order to fully consider other such potential exclusions, detailed comments that specifically address the following issues are requested:

1. Does the authority granted to the Secretary by section 451(c)(4)(B)(vii) to exclude certain payments from the definition of an advance payment under section 451(c) also permit an exception for those payments from the rules regarding the all events test under section 451(b)?

2. What significance, if any, should the time it takes to manufacture or create an item of property, or such item of property's useful life, be given in determining whether a pre-delivery payment for such item of property should be included in income as an advance payment?

3. Does the authority granted to the Secretary by section 451(c)(4)(B)(vii) authorize rules that change the timing of deductions or provide a safe harbor allowing specified categories of taxpayers to use methods of accounting for recognizing income other than an accrual method under section 451? Is there any particular authority under the Code that would allow changing the timing of deductions in this context under section 451 or another section of Subchapter E?

4. Does the authority granted to the Secretary by section 451(c)(4)(B)(vii) to exclude certain payments from the definition of an advance payment also authorize the imposition of conditions unrelated to an accrual method of accounting with respect to any such exclusions? For example, could the Secretary require that a taxpayer use an alternative method of accounting as a condition for excluding a type of payment from the definition of advance payment?

5. Does the authority granted to the Secretary by section 451(c)(4)(B)(vii) to

exclude certain payments from the definition of advance payment also authorize the imposition of a time limit on such exclusion? For example, could an exclusion under section 451(c)(4)(B)(vii) be limited to a specified number of years after which all remaining amounts would have to be recognized in income? If so, what would be an appropriate time limit?

6. Does the authority granted to the Secretary by section 451(c)(4)(B)(vii) allow deferral of income in an amount equal to the estimated future performance costs while requiring current recognition of estimated profits not in excess of the amounts of advance payments? If so, does the authority granted to the Secretary by section 451(c)(4)(B)(vii) permit rules to account for the time value of money for any variances in estimated costs or profits?

7. Would it be inappropriate to reduce the amount a C corporation would be permitted to defer for a given taxable year under a potential exclusion under section 451(c)(4)(B)(vii) by an amount equal to the excess of (i) distributions the C corporation made to its shareholders with respect to its stock, over (ii) the C corporation's taxable income for that taxable year?.

3. Advance Payment Acceleration Provisions

Section 451(c)(3) provides that the deferral method does not apply to an advance payment received by the taxpayer during a taxable year if such taxpayer ceases to exist during (or with the close of) the taxable year. In contrast, Revenue Procedure 2004–34 provides more detailed acceleration rules.

The Treasury Department and the IRS have determined that rules similar to the acceleration rules provided in Revenue Procedure 2004–34 are appropriate for the proper application of the AFS and non-AFS deferral methods. The continued use of the deferral method for an advance payment is not appropriate and should be limited in certain situations, such as when the taxpayer ceases to exist, or when their obligation regarding the advance payment is satisfied or otherwise ends. Accordingly, proposed § 1.451–8(c)(2) and (d)(6) provide rules to ensure the acceleration of an advance payment when a taxpayer either dies or ceases to exist, or when a taxpayer's obligation regarding an advance payment is satisfied or otherwise ends, except in certain circumstances. Consistent with Revenue Procedure 2004–34, the acceleration rules do not apply to a taxpayer that engages in a transaction to which section 381 applies or certain transactions in which section 351 applies in the taxable year in which an advance payment is received.

Section 451(c) does not specifically address whether the deferral method may be used when an amount is earned in the taxable year, but deferred for AFS purposes. The deferral method under section 451(c) is an exception to the requirement to include an amount in income when it is received but is not an exception to the requirement to include an amount in income when it is earned under the all events test. Accordingly, consistent with Revenue Procedure 2004–34, these proposed regulations permit deferral of advance payments received to the extent, in the year of receipt, the amount is not included in revenue in the taxpayer's AFS, and is not otherwise earned in the taxable year of receipt. The amounts not included in gross income in the year of receipt must be included in gross income in the next taxable year.

4. Advance Payments and Financial Statement Adjustments

Section 451(c) does not address the treatment of financial statement adjustments that cause amounts to not be included in income.

Proposed § 1.451–8(c)(3) and (d)(7) provide that a taxpayer that defers inclusion of all or a portion of an advance payment must include the remainder of the advance payment in gross income in the subsequent year, notwithstanding any write-down or adjustment for financial accounting purposes. This provision is consistent with a plain reading of section 451(c)(1)(B) and the rule in proposed § 1.451–3(j), which require that an item of income treated as deferred revenue in a taxpayer's AFS in one year and charged, in whole or part, to a capital account in a subsequent year, is included in revenue in the subsequent year.

A financial accounting adjustment may occur after certain equity acquisitions. For example, after certain equity acquisitions, the acquiring entity may write-down or adjust the target's deferred revenue in the subsequent year under purchase accounting rules. Some taxpayers have asserted that a write-down or adjustment for financial accounting purposes results in a permanent exclusion of income for federal income tax purposes. Proposed § 1.451–8(c)(3) and (d)(7) provide clarification for instances in which a taxpayer defers inclusion of an advance payment and is subsequently acquired in certain equity acquisitions. The Treasury Department and the IRS believe that financial statement write-downs or adjustments to deferred revenue should not be taken into account for federal income tax purposes when determining the proper amount to be included in income under the deferral method. This clarification ensures that a financial statement write-down or adjustment to deferred revenue does not result in a permanent exclusion of income for federal income tax purposes.

5. Short Taxable Years and the 92-Day Rule

Section 451(c) does not provide rules relating to the treatment of short taxable years. Proposed § 1.451–8(c)(4) and (d)(8) use the short taxable year rules of Revenue Procedure 2004–34 for the AFS and non-AFS deferral methods because a rule for short taxable years is necessary to properly implement the deferral method provided in section 451(c)(1)(B).

6. Performance Obligations for AFS and Non-AFS Taxpayers

Sections 451(b) and (c)(4)(D) require that taxpayers with contracts that contain multiple performance obligations must allocate transaction price, and therefore defer (or accelerate) income inclusion, consistent with the transaction price allocation used for AFS purposes. Proposed § 1.451–3(c)(3) (REG–104870–18) defines the term performance obligation to mean a promise in a contract with a customer to transfer to the customer either a good or service (or a bundle of goods or services) that is distinct, or a series of distinct goods or services that are substantially the same and that have the same pattern of transfer to the customer. Proposed § 1.451–8(b)(4) defines the term performance obligation by cross-reference to proposed § 1.451–3(c)(3) for purposes of the allocation rule provided in section 451(c)(4)(D).

Proposed § 1.451–8(b)(7) defines the term transaction price by cross-reference to proposed § 1.451–3(c)(6). Proposed § 1.451–3(c)(6) defines the term transaction price to mean the gross amount of consideration to which a taxpayer expects to be entitled for AFS purposes in exchange for transferring promised goods, services, or other property, including amounts referred to in proposed § 1.451–3(i). However, the term transaction price does not include certain items, such as amounts collected on behalf of third parties that are not otherwise income to the taxpayer, increases for consideration to which a taxpayer's entitlement is contingent on the occurrence or nonoccurrence of a future event, and reductions for amounts subject to section 461.

Proposed § 1.451–3(c)(6)(ii) presumes that an amount included in the transaction price for AFS purposes is not contingent unless, upon examination of all of the facts and circumstances existing at the end of the taxable year, it can be established to the satisfaction of the Commissioner that the amount is contingent on the occurrence or nonoccurrence of a future event. Proposed § 1.451–3(c)(6)(ii) also provides that certain amounts included in transaction price for AFS purposes, however, will not be treated as contingent on the occurrence or nonoccurrence of a future event.

Comments are requested on allocation of the transaction price (i) to performance obligations that are not contractually based, (ii) for arrangements that include both income subject to section 451 and long-term contracts subject to section 460, and (iii) when the income realization event for federal income tax purposes differs from the income realization event for AFS purposes.

For non-AFS taxpayers, there is a continued need to provide an allocation method consistent with the objective criteria standard in Revenue Procedure 2004–34 because such taxpayers do not have an AFS and cannot use the transaction price allocation used for AFS purposes, as provided in section 451(b)(4). Therefore, proposed § 1.451–8(d)(5) permits a non-AFS taxpayer to allocate the revenue of multiple obligations in a single contract based on how such obligations are separately priced or on any method that may be provided in guidance published in the IRB.

7. Accelerated Cost Offset

Several commenters discussed the need for a regulatory exception to the existing statutory and regulatory timing rules that apply to liabilities (for example, deductions and offsets for rebates, refunds, and cost of goods sold (COGS) prior to when the liability for such items is incurred under section 461) when advance payments are required to be included in income under section 451(c) prior to the completion of the sale of goods or provision of services (accelerated cost offset). The commenters argued that not providing an accelerated cost offset in the regulations would cause a mismatch of income and expenses and result in the taxation of gross receipts.

An allowance to account for future cost of goods sold, for future estimated costs, or other cost offset is inconsistent with sections 461(h) and, 471, 263A, and the accompanying regulations. Moreover, section 13221 does not change the timing rules provided in sections 461, 471, 263A and elsewhere that apply to liabilities. Section 13221 changes the timing of income for advance payments for goods and generally codifies Revenue Procedure 2004–34. *See* H.R. Rep. No. 115–466, at 429 (2017) (Conf. Rep.). Revenue Procedure 2004–34 does not include an accelerated cost offset when amounts are included in income prior to the sale of goods or provision of services.

The Conference Report also indicates that section 13221 of the Act is ''intended to override any deferral method provided by Treasury Regulation § 1.451–5 for advance payments received for goods.'' H.R. Rep. No. 115–466, at 429 n 880 (2017) (Conf. Rep.). Section 1.451–5 includes a deferral method that allows an accelerated cost offset when certain amounts are included in income prior to the sale of goods. *See* § 1.451–5(c). Section 451(c) does not provide a cost offset, and the Conference Report does not provide any indication that Congress intended to preserve the cost offset rules permitted under § 1.451–5. See also, Joint Committee on Taxation, General Explanation of Public Law 115–97 (JCS–1–18) at 156–157 and 164–165 (December 20, 2018). Final regulations were published in the **Federal Register** (84 FR 33691) on July 15, 2019, that withdraw § 1.451–5, consistent with the Act.

The Treasury Department and the IRS believe that Congress intentionally simplified the rules for advance payments by limiting the deferral of advance payments for taxpayers with an AFS to a prescribed statutory method that: (1) Does not include an accelerated cost offset, (2) is consistent with Revenue Procedure 2004–34, and (3) overrides § 1.451–5. See H.R. Rep. No. 115–466, at 429 (2017) (Conf. Rep.). Accordingly, the Treasury Department and the IRS decline to provide an accelerated cost offset in these proposed regulations. The Treasury Department and the IRS do not agree with the contention that changes to the timing of income under section 451 without an accelerated cost offset cause a taxation of gross receipts. Section 451(c) and these proposed regulations merely change the timing of income recognition, do not preclude any associated reduction or deduction for properly incurred liabilities, and are consistent with existing statutory and regulatory timing requirements that apply to liabilities.

Several commenters proposed a cost offset mechanism for manufacturers of certain property and taxpayers with inventoriable goods in order to ensure matching of income and the associated expenses. Commenters made the following suggestions to alleviate the potential mismatch of the acceleration of income recognition with different timing rules for associated costs: (i) Permitting a taxpayer that uses a percentage of completion method for AFS purposes (book PCM), but not subject to section 460, to elect to use their AFS method for tax purposes; (ii) permitting a taxpayer that uses book PCM, but not subject to section 460, to elect to apply section 460 for federal income tax purposes; (iii) expanding the recurring item exception in section 461(h)(3) to permit a taxpayer to offset the portion of the advance payment included in income for the taxable year by the cost of goods sold related to this payment if the goods are completed and shipped to the customer within 8½ months of the end of the taxable year that the advance payment is included in income; or (iv) providing a cost offset for taxpayers that can demonstrate at the time of the purchase agreement that a net operating loss will remain unused for the 5-year period after the taxable year the advance payment is received.

The Treasury Department and the IRS continue to consider whether any such exceptions are an appropriate use of the Secretary's authority under section 461(h) or 460. To facilitate further consideration of such potential exceptions, detailed comments that specifically address the following issues are requested:

1. Under what authority would it be appropriate for the Secretary to permit a taxpayer to use book PCM as its tax method? When inventory is involved, what limitations could be instituted to ensure that book PCM could not be used to recover costs related to inventoriable goods prior to the time when such costs could be recovered under sections 471 and 263A? Under what specific authority would it be appropriate to permit a book PCM method to be used to recover costs related to inventoriable goods?

2. Would elective use of book PCM for tax purposes provide an appropriate cost offset? Would such a method be characterized as one that reports contract revenue according to a taxpayer's book method, while accounting for costs, including nondeductible costs, as deductions under the Code? If not, how would such a method account for costs for federal income tax purposes?

3. Rather than make book PCM elective, would it be appropriate for the definition of ''unique item'' for purposes of section 460 to be expanded?

4. Section 460 requires use of the look-back method to compensate for improper acceleration or deferral of income under PCM. It also requires that all contract income be reported no later than the year following contract completion. Would elective use of a PCM under section 460 without these provisions invite abuse? If so, how could such abuse be prevented?

8. Section 451(c) Is a Method of Accounting

Section 451(c)(2) provides that a taxpayer may elect deferral treatment of an advance payment governed by section 451(c), and such election shall be made at such time and manner and with respect to such categories of advance payments as specified by the Secretary. Section 451(c)(2)(B) provides that the deferral method is treated as a method of accounting and the election is effective for taxable years with respect to which it is first made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to change to a different method of accounting.

The use of the AFS or non-AFS deferral method is the adoption of, or a change in, a method of accounting under section 446. A taxpayer may change its method of accounting to use the deferral methods only with the consent of the Commissioner as required under section 446(e) and the corresponding regulations. The Treasury Department and the IRS intend to issue future guidance that will provide the procedures by which a taxpayer may change its method of accounting to use one of the deferral methods described in these proposed regulations. However, until further guidance for the treatment of advance payments is applicable, a taxpayer may continue to rely on Revenue Procedure 2004–34, as described in Notice 2018–35.

Proposed Applicability Date

Section 7805(b)(1)(A) and (B) of the Code generally provides that no temporary, proposed, or final regulation relating to the internal revenue laws may apply to any taxable period ending before the earliest of (A) the date on which such regulation is filed with the **Federal Register**, or (B) in the case of a final regulation, the date on which a proposed or temporary regulation to which the final regulation relates was filed with the **Federal Register**.

These regulations are proposed to apply to taxable years beginning on or after the date the final regulations are published in the **Federal Register**. Until the date the Treasury decision adopting these regulations as final regulations is published in the **Federal Register**, a taxpayer may rely on these proposed regulations for taxable years beginning after December 31, 2017, provided that the taxpayer: (1) Applies all the applicable rules contained in these proposed regulations, and (2) consistently applies these proposed regulations to all advance payments. See section 7805(b)(7).

Statement of Availability of IRS Documents

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

Special Analysis

I. Regulatory Planning and Review

Executive Orders 13771, 13563, and 12866 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits, including potential economic, environmental, public health and safety effects, distributive impacts, and equity. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Executive Order 13771 designation for any final rule resulting from these proposed regulations will be informed by comments received. The preliminary Executive Order 13771 designation for this proposed rule is regulatory.

The proposed regulations have been designated by the Office of Information and Regulatory Affairs (OIRA) as subject to review under Executive Order 12866 pursuant to the Memorandum of Agreement (MOA, April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations. The Office of Information and Regulatory Affairs has designated these proposed regulations as significant under section 1(b) of the MOA. Accordingly, OMB has reviewed these proposed regulations.

1. Background

Under section 451(a) of the Internal Revenue Code, income is ''recognized'' (that is, included in gross income for tax purposes) in the year in which it is received by the taxpayer, unless it is properly accounted for in a different period under the taxpayer's method of accounting. Because of this latter condition, the tax treatment of certain forms of income depends on the method of accounting a taxpayer is using. For taxpayers using the accrual method of accounting, income is generally recognized in the year in which all events have occurred that fix the right to receive that income and when the amount of income can be determined with reasonable accuracy (the ''all events test''). Receipt of payment by the business satisfies the all events test. However, recognition of certain payments for goods or services not yet provided may be deferred to the year following receipt of payment, to the extent that recognition is also deferred for on the taxpayer's Applicable Financial Statement (AFS). Such payments are referred to as ''advance payments.''

Prior to the December 22, 2017, enactment of, ''An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018,'' Public Law 115–97, 131 Stat. 2054 (2017), commonly referred to as the Tax Cuts and Jobs Act (TCJA), taxpayers were generally permitted to defer the tax on these advance payments; in other words, advance payments could be recognized in a later taxable year. Section 451(c), added by the TCJA, allows accrual-method taxpayers to elect to recognize as income only a portion of such an advance payment in the taxable year in which it is received, and then recognize the remainder in the following taxable year. Section 451(c) essentially codifies the deferral method of accounting for advance payments that was permitted in Revenue Procedure 2004–34. (Joint Committee on Taxation, *General Explanation of Public Law 115–97,* (Washington, U.S. Government Publishing Office, December 2018), at 167.) New section 451(c), the subject of the proposed regulations, deals with issues around how these advance payments are defined and the timing in which they need to be recognized in the business's income tax.

2. Need for the Proposed Regulations

These proposed regulations provide certainty and clarity to taxpayers affected by statutory changes introduced in section 451(c). The Treasury Department and IRS have received questions and comments regarding the meaning of various provisions in section 451(c) and issues not explicitly addressed in the statute. The Treasury Department and the IRS have determined that such comments warrant the issuance of further guidance.

3. Overview of the Proposed Regulations

The proposed regulations provide guidance regarding the new section 451(c). The subsequent economic analysis covers proposed regulations to: (1) Describe and clarify the deferral rules for advance payments for taxpayers without an Applicable Financial Statement (AFS); (2) provide acceleration rules for taxpayers that cease to exist; (3) clarify the treatment of financial statement adjustments for taxpayers that have deferred advance payments; (4) provide rules relating to the treatment of short taxable years for taxpayers deferring advance payments; and (5) define and clarify the treatment of performance obligations.

4. Economic Analysis

A. Baseline

The Treasury Department and the IRS have assessed the benefits and costs of the proposed regulations relative to a no-action baseline reflecting anticipated Federal income tax-related behavior in the absence of these proposed regulations. The following largely qualitative analysis describes the anticipated economic effects of the proposed regulation relative to this baseline.

B. Summary of Economic Effects

The proposed regulations provide certainty and consistency in the application of section 451(c) by providing definitions and clarifications regarding the statute's terms and rules. An economically efficient tax system generally aims to treat income and expense derived from similar economic decisions consistently across taxpayers and across activities in order to reduce incentives for businesses to make choices based on tax rather than market incentives. In the absence of the guidance provided in these proposed regulations, the chances that different taxpayers might interpret the statute differently is exacerbated. For example, two similarly situated taxpayers might interpret the statutory provisions pertaining to the definition of advanced payments differently, with one taxpayer pursuing a project that another comparable taxpayer might decline because of a different interpretation of how the income may be treated under section 451(c). If this second taxpayer's activity is more profitable, an economic loss arises. An economic loss might also arise if all taxpayers have identical interpretations under the baseline of the tax treatment of particular income streams but are more conservative (or less conservative) regarding the interpretation than Congress intended for these income streams. In this case, guidance provides value by bringing economic decisions closer in line with the intents and purposes of the statute.

Because the proposed regulations clarify the tax treatment of certain income streams, there is the possibility that investments or other business decisions may change as a result of these regulations. The Treasury Department and the IRS have not made projections of the change in investment patterns that might arise due to the discretionary aspects of the proposed regulations. The Treasury Department and the IRS have also not made projections of any change in compliance costs arising from the proposed regulations, relative to the baseline. The Treasury Department project that changes in investment patterns and compliance costs relative to the baseline may generally be small because the proposed regulations affect a relatively small number of entities and because they largely mirror the rules of Rev. Proc. 2004–34.

The economic consequences of these proposed regulations depend in part on their interaction with other sections of the Code, including section 460, which governs when costs can be recovered under the percentage of completion method, and section 461(h), which governs when costs incurred by a taxpayer satisfy the all events test, including a requirement for economic performance, and are thereby allowed as deductions for Federal income tax purposes. The economic analysis of the final regulations under section 451(c) may address the economic effects of regulatory guidance, if any, under sections 460 and 461(h) or other sections of the Code that interact with section 451(c), that is issued between the proposed and final regulations.

The Treasury Department and the IRS project that approximately 15,000 business entities may be affected by these regulations.

The Treasury Department and the IRS solicit comments on this conclusion and particularly solicit comments that provide data, evidence, or models that would enhance the rigor by which the non-revenue economic effects might be estimated for the final regulations.

C. Economic Analysis of Specific Provisions

The Treasury Department and the IRS solicit comments on the economics of each of the items discussed subsequently and of any other items of the proposed regulations not discussed in this section. The Treasury Department and the IRS particularly solicit comments that provide data, other evidence, or models that could enhance the rigor of the process by which provisions might be developed for the final regulations.

i. Deferral Methods Under Section 451(c)

The statute prescribes a particular deferral method for accrual-method taxpayers that have an AFS (AFS taxpayers) but does not explicitly describe a deferral method to be used by taxpayers that do not have an AFS (non-AFS taxpayers). To remedy this gap, the proposed regulations describe and clarify that a method similar to the deferral method available to non-AFS taxpayers under Revenue Procedure 2004–34 will be available to non-AFS taxpayers.

The Treasury Department and the IRS considered and rejected a narrow interpretation of section 451(c) that would have precluded non-AFS taxpayers from using a deferral method similar to that provided in Revenue Procedure 2004–34. Section 451(c) does not explicitly prohibit the use of such a method by non-AFS taxpayers, and the Treasury Department and IRS continue to have authority under the Code to prescribe a deferral method for such taxpayers. Precluding non-AFS taxpayers from using a deferral method similar to that of AFS taxpayers would treat AFS and non-AFS taxpayers quite differently regarding business decisions they might make that are otherwise similar. Such treatment would result in a less economically efficient tax system, which generally treats similar economic decisions similarly.

The Treasury Department and the IRS solicit comments on this decision on the treatment of deferral by non-AFS taxpayers and particularly solicit comments that provide data, other evidence, or models that could enhance the rigor by which the final regulations over non-AFS deferral might be developed.

ii. Advance Payment Acceleration Provisions

If a taxpayer ceases to exist by the close of a taxable year in which an advance payment has been received and deferred, then issues may arise as to when or whether the remaining amount of the payment will be recognized as taxable income because there may not be a succeeding taxable year in which such income can be recognized.

Under the statute, if the taxpayer dies or ceases to exist by the close of the taxable year in which the advance payment was received, any remaining untaxed amounts of advance payments must be included in income in the year

they were received. The proposed regulations extend this payment ''acceleration'' rule to situations in which a performance obligation is satisfied or otherwise ends in the taxable year of receipt or in a succeeding short taxable year, a treatment that is consistent with a similar rule in Revenue Procedure 2004–34.

The Treasury Department and the IRS considered not modifying or expanding the acceleration rule contained in section 451(c), but rejected this alternative because of the remaining amount may never be picked up into income risking a permanent exclusion of the amount from taxable income. The possibility of a permanent exclusion of income provides incentives for taxpayers to structure payments in ways that avoid tax liability, thus reducing Federal tax revenue without providing an accompanying general economic benefit. The proposed regulations treat the expanded set of accelerated transactions consistently with similar types of transactions based on the timing and structure of the payments involved.

The Treasury Department and the IRS solicit comments on the proposed regulation's treatment of acceleration and particularly solicit comments that provide data, other evidence, or models that would enhance the rigor by which the treatment of acceleration might be developed for the final regulations.

iii. Advance Payments and Financial Statement Adjustments

Under the statute, if a taxpayer counts an advance payment as an item of deferred revenue, under certain conditions (for example, certain acquisitions of one corporation by another), the taxpayer may be required by its system of accounting to adjust that item on the balance sheet in a subsequent year. The item would then not be included in current earnings or AFS revenues. In this case, taxpayers might argue that they can exclude the amount deferred from taxable income because it is never ''earned'' nor included in revenue under their AFS. If this argument is upheld, taxpayers could convert an income ''deferral'' amount into an income ''exemption'' amount. To address this issue and avoid this possibility, the proposed regulations specify that such financial statement adjustments are to be treated as ''revenue.''

The Treasury Department and the IRS considered not providing clarity on the treatment of financial statement write-downs, but rejected that approach, because it would have risked an inappropriate permanent exclusion of income. The possibility of a permanent exclusion of income provides incentives for taxpayers to structure payments in ways that avoid tax liability, thus reducing Federal tax revenue without providing an accompanying general economic benefit.

The Treasury Department and the IRS solicit comments on these proposed regulations and particularly solicits comments that provide data, other evidence, and models that would enhance the rigor by which the final regulations dealing with financial statement adjustments might be developed.

iv. Short Taxable Years and the 92-Day Rule

Section 451(c) does not provide a rule relating to the treatment of short taxable years. In the absence of such a rule, it will be unclear to taxpayers how they should implement the deferral method provided in section 451(c) in the case of a short taxable year. To address this issue, the proposed regulations provide rules relating to the treatment of short taxable years for advance payments that are generally consistent with Revenue Procedure 2004–34. The Treasury Department and the IRS considered and rejected not providing short taxable year rules because such a decision would have created significant confusion among taxpayers, increased administrative costs for the IRS, and increased compliance costs for taxpayers.

The Treasury Department and the IRS solicit comments on these proposed regulations and particularly solicit comments that would provide data, other evidence, and models that would enhance the rigor by the treatment of short taxable years might be developed for the final regulations.

v. Performance Obligations for Non-AFS Taxpayers

A performance obligation is a contractual arrangement with a customer to provide a good, service or a series of goods or services that are basically the same and have a routine pattern of transfer. The statute requires that taxpayers with contracts that include multiple performance obligations to allocate the transaction price to each performance obligation in the same manner that revenue is allocated in the taxpayer's AFS. The statute does not, however, specify the allocation rules to be used by non-AFS taxpayers.

To address this issue, the proposed regulations provide allocation rules for non-AFS taxpayers consistent with a similar rule in Revenue Procedure 2004–34. That rule specifies that the transaction price be allocated in a manner that is based on payments the taxpayer regularly receives for an item or items it regularly sells or provides separately. The Treasury Department and the IRS considered not providing allocation rules for non-AFS taxpayers but rejected such an approach because it would have treated similarly situated taxpayers quite differently, and would have led to increased administrative costs for the IRS and increased compliance costs for taxpayers. While the allocation rules for AFS taxpayers and non-AFS taxpayers under the proposed regulations do differ, the chosen solution provides a rule upon which non-AFS taxpayers can rely, while minimizing the differences between AFS and non-AFS taxpayers in this regard within the constraints imposed by the statute.

The Treasury Department and the IRS solicit comments on these proposed regulations and particularly solicit comments that would provide data, other evidence, and models that would enhance the rigor by which final regulations affecting the treatment of performance obligations taxable for non-AFS taxpayers might be developed for the final regulations.

II. Paperwork Reduction Act

These proposed regulations do not impose any additional information collection requirements in the form of reporting, recordkeeping requirements or third-party disclosure requirements related to tax compliance. However, because the deferral methods described in proposed §§ 1.451–8(c) and (d) are methods of accounting, a portion of affected taxpayers would be required to request the consent of the Commissioner for a change in their method of accounting under section 446(e) and the accompanying regulations. The IRS expects that these taxpayers will request this consent by filing Form 3115, *Application for Change in Accounting Method (Parts I, II, IV and Schedule B).* Filing of Form 3115 and statements attached thereto (for taxpayers who are required to do so or who elect to do so as a result of the proposed regulations) is the sole collection of information requirement imposed by the statute and the proposed regulations. See subsequent paragraphs for a description of taxpayers who would be required to change the method of accounting under the statute and the proposed regulations.

For purposes of the Paperwork Reduction Act, the reporting burden associated with the collection of

information with respect to section 451(c) will be reflected in the Paperwork Reduction Act submissions for IRS Form 3115 (OMB control numbers 1545–0074 for individual filers, 1545–0123 for business filers, and 1545–2070 for all other types of filers). The IRS may provide streamlined method change procedures which could permit the filing of a statement in lieu of filing a Form 3115, or, in certain cases, no notification (see, for example, the revenue procedure accompanying these proposed regulations).

The Treasury Department and the IRS anticipate that these proposed regulations would require an accrual method taxpayer that receives an advance payment and chooses to make an election to use the deferral method described in proposed § 1.451–8(c) or (d) to file a Form 3115 to change the method of accounting to comply with these proposed regulations. See proposed § 1.451–8(e). The Treasury Department and IRS estimate that 20,000–40,000 taxpayers will be required to file a Form 3115 in order to change to the deferral method described in proposed § 1.451–8(c).[a] The Treasury Department and the IRS anticipate a certain number of accrual method taxpayers without an AFS that receive advance payments may choose to use the non-AFS deferral method described in proposed § 1.451–8(d). The Treasury Department and IRS plan to provide streamlined procedures for taxpayers to change to the methods of accounting described in proposed § 1.451–8(c) and (d). See the revenue procedure accompanying these proposed regulations.

For a taxpayer with an AFS that uses the deferral method in proposed § 1.451–8(c), a change in the taxpayer's revenue recognition policies for financial accounting purposes requires the taxpayer to seek the consent of the Commissioner under section 446(e) to use the method for federal income tax purposes. See proposed § 1.451–8(e). It is anticipated that the reporting burden associated with the collection of information for a statement in lieu of the Form 3115 would be reflected in the Paperwork Reduction Act Submission associated with Revenue Procedure 2018–31, 2018–22 IRB 637 (or successor) (OMB control number 1545–1551). See the revenue procedure accompanying these proposed regulations.

In 2018, the IRS released and invited comment on a draft of Form 3115 in order to give members of the public the opportunity to benefit from certain specific provisions made to the Code. The IRS received no comments on the forms during the comment period. Consequently, the IRS made the forms available in January 2019 for use by the public. The IRS notes that Form 3115 applies to changes of accounting methods generally and is therefore broader than section 451(c).

The current status of the Paperwork Reduction Act submissions related to the information collections in the proposed regulations is provided in the accompanying table. The overall burden estimates provided for the OMB control numbers below are aggregate amounts that relate to the entire package of forms associated with the applicable OMB control number and will in the future include, but not isolate, the estimated burden of the tax forms that will be created or revised as a result of the information collections in the proposed regulations. These numbers are therefore unrelated to the future calculations needed to assess the burden imposed by the proposed regulations. These burdens have been reported for other regulations that rely on the same OMB control numbers to conduct information collections under the Paperwork Reduction Act, and the Treasury Department and the IRS urge readers to recognize that these numbers are duplicates and to guard against overcounting the burden that the regulations that cite these OMB control numbers impose. No burden estimates specific to the forms affected by the proposed regulations are currently available. The Treasury Department and the IRS have not estimated the burden, including that of any new information collections, related to the requirements under the proposed regulations. For the OMB control numbers discussed above, the Treasury Department and the IRS estimate PRA burdens on a taxpayer-type basis rather than a provision-specific basis. Those estimates capture both changes made by the Act and those that arise out of discretionary authority exercised in the proposed regulations (when final) and other regulations that affect the compliance burden for that form.

The Treasury Department and the IRS request comments on all aspects of information collection burdens related to the proposed regulations, including estimates for how much time it would take to comply with the paperwork burdens described above for each relevant form and ways for the IRS to minimize the paperwork burden. In addition, when available, drafts of IRS forms are posted for comment at *https://apps.irs.gov/app/picklist/list/draftTaxForms.htm*. IRS forms are available at *https://www.irs.gov/forms-instructions*. Forms will not be finalized until after they have been approved by OMB under the PRA.

[a] This estimate is based on data from the Compliance Data Warehouse of accrual-method taxpayers (includes C corporations, S corporations, partnerships, and sole proprietorships) with an AFS that E-filed schedule M–3 during 2012–2016. Schedule M–3 is used to report a net income (loss) reconciliation but not all taxpayers who should file an M–3 do so. The rules for filing the M–3 differ based on taxpayer status. For example, for C corporations, in general only those with assets of $10 million or more file an M–3 schedule with their Form 1120.

Form	Type of Filer	OMB Number(s)	Status
Form 3115	All other Filers (mainly trusts and estates) (Legacy system)	1545-2070	Published in the Federal Register on 2/15/17 by IRS. Public Comment period closed on 4/17/17.
	Link: https://www.federalregister.gov/documents/2017/02/15/2017-02985/proposed-information-collection-comment-request		
	Business (NEW Model)	1545-0123	Published in the Federal Register on 10/8/18. Public Comment period closed on 12/10/18.
	Link: https://www.federalregister.gov/documents/2018/10/09/2018-21846/proposed-collection-comment-request-for-forms-1065-1065-b-1066-1120-1120-c-1120-f-1120-h-1120-nd		
	Individual (NEW Model)	1545-0074	Limited Scope submission (1040 only) on 10/11/18 at OIRA for review. Full ICR submission for all forms in 3-2019. 60-Day Federal Register notice not published yet for full collection.
	Link: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201808-1545-031		
Revenue Procedure 2018-31	IRS Research estimates	1545-1551	Published in the Federal Register on 8-31-16. Public Comment period closed on 9/30/16.
	Link: https://www.federalregister.gov/documents/2016/08/31/2016-20993/submission-for-omb-review-comment-request		

III. Regulatory Flexibility Act

It is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities within the meaning of section 601(6) of the Regulatory Flexibility Act (5 U.S.C. chapter 6).

The Treasury Department and the IRS have estimated the number of business entities that may be affected by the statute and these proposed regulations. The statute and proposed regulations affect only those business entities that use an accrual method of accounting.

Regarding the accrual method of accounting, the Treasury Department and the IRS estimate that approximately 9 percent of business entities with gross receipts of $25 million or less used an accrual method of accounting in taxable year 2016. Furthermore, section 13102 of TCJA modified section 448 to expand the number of taxpayers eligible to use the cash method. In general, C corporations and partnerships with a C corporation partner are now permitted to use the cash receipts and disbursements method of accounting if average annual gross receipts are $25 million or less (up from $5 million or less in 2016). The Treasury Department and the IRS project that in future years, the number of entities with gross receipts not greater than $25 million that will be using the accrual method will be less than 9 percent of all entities with gross receipts not greater than $25 million.

Entity	Number of returns (taxable year 2016) (thousands)		
	All returns	Method of accounting	
		Accrual	Cash
C Corporations:			
Gross Receipts >$25 mil	30	28	2
Gross Receipts ≦$25 mil	1,567	700	867
Total	1,597	728	869
S Corporations:			
Gross Receipts >$25 mil	41	34	7
Gross Receipts ≦$25 mil	4,551	1,140	3,411
Total	4,592	1,174	3,418
Partnerships:			
Gross Receipts >$25 mil	20	17	3
Gross Receipts ≦$25 mil	3,743	860	2,883
Total	3,763	877	2,886
Sole Proprietors and LLCs:			
Gross Receipts >$25 mil	1	1	0
Gross Receipts ≦$25 mil	25,524	358	25,166
Total	25,525	359	25,166
All Entities:			
Gross Receipts >$25 mil	92	80	12
Gross Receipts ≦$25 mil	35,385	3,058	32,327
Total	35,477	3,138	32,339

Source: Statistics of Income data. Cash accounting includes cash, other, and unknown.

Regarding the applicable financial statement, the Treasury Department and the IRS estimate that 235,000–250,000 entities with gross receipts of $25 million or less had an audited income statement in taxable year 2016. This is an upper bound estimate of entities that may be affected by these proposed regulations because small entities are less likely to have a financial statement that falls within the definition of AFS in proposed § 1.451–3(c)(1) (which generally refers to certified audited financial statements in accordance with GAAP or IFRS). An AFS is generally a financial statement that is certified as being prepared in accordance with GAAP or IFRS that is issued for credit purposes, reporting to shareholders, or other non-tax purpose. The smaller the entity, the less likely that it will engage a CPA firm to audit their financial statements. An AFS does not include financial statements that have only been compiled or reviewed by a CPA firm, which are more affordable for small entities, as these types of statements are not certified as prepared in accordance with GAAP or IFRS.

Affected taxpayers would be required to file Form 3115. As an indicator of whether a taxpayer is likely to have to file a Form 3115, the Treasury Department and the IRS estimated the number of businesses that used the accrual method of accounting, had a financial statement, and indicated they had unearned or deferred income. Approximately 15,000 businesses with gross receipts of $25 million or less fit this category. This is an upper bound estimate of the number of taxpayers relying of Revenue Procedure 2004–34 that will need to file a Form 3115 since some reporting of unearned or deferred income may just have deferral for financial reporting and not tax reporting reasons.

These proposed rules will not have a significant economic impact on small entities affected because the costs to comply with these proposed regulations are not significant. An entity is required to file a Form 3115 (Parts I, II, IV and Schedule B) to change its method of accounting in order to use the deferral method described in proposed § 1.451–8(c) or (d). The Treasury Department and IRS plan to provide streamlined procedures for taxpayers to change to the methods of accounting described in proposed § 1.451–8(c)1 and (d). See the revenue procedure accompanying these proposed regulations. As noted in this revenue procedure, the estimated cumulative annual reporting and/or recordkeeping burden for the statutory method changes described under OMB control number 1545–1551, before publication of the revenue procedure, is 27,336 respondents, and a total annual reporting and/or recordkeeping burden of 30,580 hours. The estimated annual burden per respondent/recordkeeper under OMB control number 1545–1551 before publication of this revenue procedure varies from ⅙ hour to 8½ hours, depending on individual circumstances, with an estimated average of 1¼ hours. The estimated cumulative annual reporting and/or recordkeeping burden for the method changes described under OMB control number 1545–1551 after that revenue procedure is accounted for is 27,346 respondents, and a total annual reporting and/or recordkeeping burden is 31,479 hours, leaving the average reporting and recordkeeping burden essentially unchanged. These burdens are essentially unaffected by these proposed regulations.

Notwithstanding this certification that the proposed rule would not have a significant economic impact on a substantial number of small entities, the Treasury Department and the IRS invite comments from the public about the impact of this proposed rule on small entities.

Pursuant to section 7805(f), these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

IV. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other

actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a state, local, or tribal government, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. In 2018, that threshold is approximately $150 million. This rule does not include any Federal mandate that may result in expenditures by state, local, or tribal governments, or by the private sector in excess of that threshold.

V. Executive Order 13132: Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on state and local governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. All comments will be available at *http://www.regulations.gov* or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Effect on Other Documents

When finalized, these proposed regulations will obsolete Revenue Procedure 2004–34, Revenue Procedure 2011–18, Revenue Procedure 2013–29 and Notice 2018–35.

Drafting Information

The principal author of these proposed regulations is Peter E. Ford, IRS Office of the Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *
Sections 26 U.S.C. 451(c)(2)(A), (3), (4)(A)(iii), (4)(B)(vii);

■ Par. 2. Section 1.451–8 is added to read as follows:

§ 1.451–8 Advance payments for goods, services, and certain other items.

(a) *In general.* Except as provided in paragraph (c) or (d) of this section, an accrual method taxpayer shall include an advance payment in gross income no later than in the taxable year in which the taxpayer receives the advance payment as provided under § 1.451–1(a).

(b) *Definitions.* Except as otherwise provided in this section, the following definitions apply for purposes of this section:

(1) *Advance payment*—(i) *In general.* An advance payment is a payment received by a taxpayer if:

(A) The full inclusion of the payment in the gross income of the taxpayer for the taxable year of receipt is a permissible method of accounting, without regard to this section;

(B) Any portion of the payment is included in revenue by the taxpayer in an applicable financial statement for a subsequent taxable year;

(C) The payment is for:

(*1*) Services;

(*2*) The sale of goods;

(*3*) The use, including by license or lease, of intellectual property, including copyrights, patents, trademarks, service marks, trade names, and similar intangible property rights, such as franchise rights and arena naming rights;

(*4*) The occupancy or use of property if the occupancy or use is ancillary to the provision of services, for example, advance payments for the use of rooms or other quarters in a hotel, booth space at a trade show, campsite space at a mobile home park, and recreational or banquet facilities, or other uses of property, so long as the use is ancillary to the provision of services to the property user;

(*5*) The sale, lease, or license of computer software;

(*6*) Guaranty or warranty contracts ancillary to an item or items described in paragraph (b)(1)(i)(C)(*1*), (*2*), (*3*), (*4*), or (*5*) of this section;

(*7*) Subscriptions in tangible or intangible format. Subscriptions for which an election under section 455 is in effect is not included in this paragraph (b)(1)(i)(C)(*7*);

(*8*) Memberships in an organization. Memberships for which an election under section 456 is in effect are not included in this paragraph (b)(1)(i)(C)(*8*);

(*9*) An eligible gift card sale;

(*10*) Any other payment specified by the Secretary in other guidance published in the Internal Revenue Bulletin (*see* § 601.601(d)(2)); or

(*11*) Any combination of items described in paragraphs (b)(1)(i)(C)(*1*) through (*10*) of this section.

(ii) *Exclusions from the definition of advance payment.* An advance payment does not include:

(A) Rent, except for amounts paid with respect to an item or items described in paragraph (b)(1)(i)(C)(*3*), (*4*) or (*5*) of this section;

(B) Insurance premiums, to the extent the inclusion of those premiums is governed by subchapter L;

(C) Payments with respect to financial instruments (for example, debt instruments, deposits, letters of credit, notional principal contracts, options, forward contracts, futures contracts, foreign currency contracts, credit card agreements (including rewards or loyalty points under such agreements), financial derivatives, or similar items), including purported prepayments of interest;

(D) Payments with respect to service warranty contracts for which the taxpayer uses the accounting method provided in Revenue Procedure 97–38 (1997–2 CB 479);

(E) Payments with respect to warranty and guaranty contracts under which a third party is the primary obligor;

(F) Payments subject to section 871(a), 881, 1441, or 1442;

(G) Payments in property to which section 83 applies; and

(H) Payments received in a taxable year earlier than the taxable year immediately preceding the taxable year of the contractual delivery date for a specified good.

(2) *Applicable financial statement.* Applicable financial statement has the same meaning as provided in proposed § 1.451–3(c)(1).

(3) *Eligible gift card sale.* Eligible gift card sale means the sale of a gift card or gift certificate if:

(i) The taxpayer is primarily liable to the customer, or holder of the gift card,

for the value of the card until redemption or expiration; and

(ii) The gift card is redeemable by the taxpayer or by any other entity that is legally obligated to the taxpayer to accept the gift card from a customer as payment for items listed in paragraphs (b)(1)(i)(C)(*1*) through (*11*) of this section.

(4) *Performance obligation.* Performance obligation has the same meaning as provided in proposed § 1.451–3(c)(3).

(5) *Received.* An item of gross income is received by the taxpayer if it is actually or constructively received, or if it is due and payable to the taxpayer.

(6) *Revenue.* Revenue has the same meaning as provided in proposed § 1.451–3(c)(4) and is determined under the rules provided in proposed § 1.451–3.

(7) *Transaction price.* Transaction price has the same meaning as provided in proposed § 1.451–3(c)(6).

(8) *Contractual delivery date.* Contractual delivery date means the month and year of delivery listed in the written contract to the transaction.

(9) *Specified good.* A specified good means a good for which:

(i) During the taxable year a payment is received, the taxpayer does not have on hand (or available to it in such year through its normal source of supply) goods of a substantially similar kind and in a sufficient quantity to satisfy the contract to transfer the good to the customer; and

(ii) All the revenue from the sale of the good is recognized in the taxpayer's AFS in the year of delivery.

(c) *Deferral method for taxpayers with an applicable financial statement (AFS)*—

(1) *In general.* An accrual method taxpayer with an AFS that receives an advance payment may elect the deferral method described in this paragraph (c) if the taxpayer is able to determine the extent to which advance payments are included in revenue in its AFS in the taxable year received, including a short taxable year (if applicable). A taxpayer that uses the deferral method must:

(i) Include the advance payment, or any portion thereof, in gross income in the taxable year of receipt to the extent included in revenue in its AFS; and

(ii) Include the remaining portion of such advance payment in gross income in the taxable year following the taxable year in which such payment is received.

(2) *Acceleration of advance payments*—(i) *In general.* A taxpayer that uses the deferral method described in this paragraph (c) must include in gross income for the taxable year of receipt or, if applicable, for a short taxable year described in paragraph (c)(4) of this section, all advance payments not previously included in gross income:

(A) If, in that taxable year, the taxpayer either dies or ceases to exist in a transaction other than a transaction to which section 381(a) applies; or

(B) If, and to the extent that, in that taxable year, the taxpayer's obligation with respect to the advance payments is satisfied or otherwise ends other than in:

(*1*) A transaction to which section 381(a) applies; or

(*2*) A section 351(a) transfer that is part of a section 351 transaction in which:

(*i*) Substantially all assets of the trade or business (including advance payments) are transferred;

(*ii*) The transferee adopts or uses the deferral method in the year of transfer; and

(*iii*) The transferee and the transferor are members of the same consolidated group, as defined in § 1.1502–1(h).

(ii) *Example. Ceasing to exist.* A is a calendar year taxpayer and is in the business of selling and licensing computer software (off the shelf, fully customized, and semi-customized) and providing customer support. On July 1, 2018, A enters into a 2-year software maintenance contract and receives an advance payment. Under the contract, A will provide software updates if it develops an update within the contract period, as well as online and telephone customer support. A ceases to exist on December 1, 2018, in a transaction that does not involve a section 351(a) transfer described in paragraph (c)(2)(i)(B)(*2*) of this section and is not a transaction to which section 381(a) applies. For federal income tax purposes, A must include the entire advance payment in gross income in its 2018 taxable year.

(3) *Financial statement adjustments*—(i) *In general.* Notwithstanding section 451(c)(4)(A)(ii), if a taxpayer treats an advance payment as an item of deferred revenue in its AFS and writes-down or adjusts that item, or portion thereof, to an equity account (for example, retained earnings) or otherwise writes-down or adjusts that item of deferred revenue in a subsequent taxable year, revenue for that subsequent taxable year includes that item, or portion thereof, that is written down or adjusted.

(ii) *Examples*—(A) *Example 1.* On May 1, 2018, A, a corporation that files its federal income tax return on a calendar year basis, received $100 as an advance payment for a 2-year contract to provide services. For financial accounting purposes, A recorded $100 as a deferred revenue liability in its AFS, expecting to report ¼ of the advance payment in revenue in its AFS for 2018, ½ for 2019, and ¼ for 2020. On August 31, 2018, C, an unrelated corporation that files its federal income tax return on a calendar year basis, acquired all of the stock of A, and A joined C's consolidated group. A's short taxable year ended on August 31, 2018, and, as of that date, A had included only ¼ ($25) of the advance payment in revenue in its AFS. On September 1, 2018, after the stock acquisition, and in accordance with purchase accounting rules, C wrote down A's deferred revenue liability to its fair value of $10 as of the date of the acquisition. The $10 will be included in revenue on A's AFS in accordance with the method of accounting A uses for financial accounting purposes. For federal income tax purposes, A uses the deferral method. For federal income tax purposes, A must take ¼ ($25) of the advance payment into income for its short taxable year ending August 31, 2018, and the remainder of the advance payment ($75) ($65 write down + $10 future financial statement revenue) must be included in income for A's next succeeding taxable year.

(B) *Example 2.* On May 1, 2018, B, a corporation that files its federal income tax return on a calendar year basis, received $100 advance payment for a contract to be performed in 2018, 2019, and 2020. On August 31, 2018, D, a corporation that is not consolidated for federal income tax purposes, acquired all of the stock of B. Before the stock acquisition, on its AFS for 2018, B included $40 of the advance payment in revenue, and $60 as a deferred revenue liability. On September 1, 2018, after the stock acquisition and in accordance with purchase accounting rules, D wrote down its $60 deferred revenue liability to $10 (its fair value) as of the date of the acquisition. After the acquisition, B does not include in revenue any of the $10 deferred revenue liability in its 2018 AFS. B does include $5 in revenue in 2019, and $5 in revenue in 2020. For federal income tax purposes, B uses the deferral method. For federal income tax purposes, B must take $40 of the advance payment into income in 2018, and the remainder of the advance payment ($60) ($50 write down + $10 future financial statement revenue) must be included in income for B's next succeeding taxable year, 2019.

(4) *Short taxable year rule*—(i) *In general.* If the taxpayer's next succeeding taxable year is a short taxable year, other than a taxable year in which the taxpayer dies or ceases to exist in a transaction other than a transaction to which section 381(a) applies, and the short taxable year consists of 92 days or less, a taxpayer using the deferral method must include the portion of the advance payment not included in the taxable year of receipt in gross income for the short taxable year to the extent included in revenue in an AFS. Any amount of the advance payment not included in the taxable year of receipt and the short taxable year must be included in gross income for the taxable year immediately following the short taxable year.

(ii) *Example.* A is a calendar year taxpayer and is in the business of selling and licensing

computer software (off the shelf, fully customized, and semi-customized) and providing customer support. On July 1, 2018, A receives an advance payment for a 2-year software maintenance contract. Under the contract, A will provide software updates if it develops an update within the contract period, as well as online and telephone customer support. A changes its taxable period to a fiscal year ending March 31 so that A has a short taxable year beginning January 1, 2019, and ending March 31, 2019. In its AFS, A includes ¼ of the payment in revenue for the taxable year ending December 31, 2018; ⅙ in revenue for the short taxable year ending March 31, 2019; ¼ in revenue for the taxable year ending March 31, 2020; and ¼ in revenue for the taxable year ending March 31, 2021. Because the taxable year ending March 31, 2019, is 92 days or less, A must include ¼ of the payment in gross income for the taxable year ending December 31, 2018, ⅙ in gross income for the short taxable year ending March 31, 2019, and the remaining amount in gross income for the taxable year ending March 31, 2020.

(5) *Financial statement conformity requirement.* A taxpayer that uses the deferral method under this paragraph (c) must use the same financial statement that is used to apply the rules in section 451(b) and the accompanying regulations when applying the deferral method provided in section 451(c) and these regulations.

(6) *Allocation of transaction price.* A taxpayer using the deferral method under this paragraph (c) must use the allocation rules provided in proposed § 1.451–3(g).

(7) *Rules relating to eligible gift card sales.* For purposes of paragraphs (b)(1)(i)(B) and (c)(1) of this section, if an eligible gift card is redeemable by an entity described in paragraph (b)(3)(ii) of this section whose financial results are not included in the taxpayer's AFS, a payment will be treated as included by the taxpayer in revenue in its AFS to the extent the gift card is redeemed by the entity during the taxable year.

(8) *Examples.* The following examples illustrate the rules of this paragraph (c). In each example in paragraphs (c)(8)(i) through (xxv) of this section, the taxpayer uses an accrual method of accounting for federal income tax purposes and files its returns on a calendar year basis. Except as stated otherwise, the taxpayer in each example has an AFS.

(i) *Example 1. Services.* On November 1, 2018, A, in the business of giving dancing lessons, receives an advance payment for a 1-year contract commencing on that date and providing for up to 48 individual, 1-hour lessons. A provides eight lessons in 2018 and another 35 lessons in 2019. In its AFS, A includes ⅙ of the payment in revenue for 2018, and ⅚ of the payment in revenue for 2019. A uses the deferral method. For federal income tax purposes, A must include ⅙ of the payment in gross income for 2018, and the remaining ⅚ of the payment in gross income for 2019.

(ii) *Example 2. Services.* Assume the same facts as in Example 1 in paragraph (c)(8)(i) of this section, except that the advance payment is received for a 3-year contract under which up to 96 lessons are provided. A provides eight lessons in 2018, 48 lessons in 2019, and 40 lessons in 2020. In its AFS, A includes 1/12 of the payment in revenue for 2018, ½ of the payment in revenue for 2019, and 5/12 of the payment in gross revenue for 2020. For federal income tax purposes, A must include 1/12 of the payment in gross income for 2018, and the remaining 11/12 of the payment in gross income for 2019.

(iii) *Example 3. Goods and Services.* On June 1, 2018, B, a landscape architecture firm, receives an advance payment for goods and services that, under the terms of the agreement, must be provided by December 2019. On December 31, 2018, B estimates that ¾ of the work under the agreement has been completed. In its AFS, B includes ¾ of the payment in revenue for 2018 and ¼ of the payment in revenue for 2019. B uses the deferral method. For federal income tax purposes, B must include ¾ of the payment in gross income for 2018, and the remaining ¼ of the payment in gross income for 2019, regardless of whether B completes the job in 2019.

(iv) *Example 4. Repair Contracts.* On July 1, 2018, C, in the business of selling and repairing television sets, receives an advance payment for a 2-year contract under which C agrees to repair or replace, or authorizes a representative to repair or replace, certain parts in the customer's television set if those parts fail to function properly. In its AFS, C includes ¼ of the payment in revenue for 2018, ½ of the payment in revenue for 2019, and ¼ of the payment in revenue for 2020. C uses the deferral method. For federal income tax purposes, C must include ¼ of the payment in gross income for 2018 and the remaining ¾ of the payment in gross income for 2019.

(v) *Example 5. Online website Design.* D, in the business of building and designing websites, receives advance payments that oblige D to build and design various websites. D tracks each request for a website with unique identifying numbers. On July 20, 2018, D receives online payments for 2 websites. One of the website requests is submitted and processed on September 1, 2018, and the other is submitted and processed on February 1, 2020. In its AFS, D includes the payment for the September 1, 2018, website in revenue for 2018 and the payment for the February 1, 2020, website in revenue for 2020. D uses the deferral method. For federal income tax purposes, D must include the payment for the September 1, 2018, website in gross income for 2018 and the payment for the February 1, 2020, website in gross income for 2019.

(vi) *Example 6. Gift Cards.* E, a hair styling salon, receives advance payments for gift cards that may later be redeemed at the salon for hair styling services or hair care products at the face value of the gift card. The gift cards look like standard credit cards, and each gift card has a magnetic strip that, in connection with E's computer system, identifies the available balance. The gift cards may not be redeemed for cash and have no expiration date. In its AFS, E includes advance payments for gift cards in revenue when redeemed. E is not able to determine the extent to which advance payments are included in revenue in its AFS for the taxable year of receipt and therefore does not meet this requirement of paragraph (c)(1) of this section. Therefore, E may not use the deferral method for these advance payments.

(vii) *Example 7. Gift Cards.* Assume the same facts as in Example 6 in paragraph (c)(8)(vi) of this section, except that the gift cards have an expiration date 12 months from the date of sale, E does not accept expired gift cards, and E includes unredeemed gift cards in revenue in its AFS for the taxable year in which the cards expire. Because E tracks the sale date and the expiration date of the gift cards for purposes of its AFS, E is able to determine the extent to which advance payments are included in revenue for the taxable year of receipt. Therefore, E meets this requirement of paragraph (c)(1) of this section and may use the deferral method for these advance payments.

(viii) *Example 8. Online Subscriptions.* G is in the business of compiling and providing business information for a particular industry in an online format accessible over the internet. On September 1, 2018, G receives an advance payment from a subscriber for 1 year of access to its online database, beginning on that date. In its AFS, G includes ⅓ of the payment in revenue for 2018 and the remaining ⅔ in revenue for 2019. G uses the deferral method. For federal income tax purposes, G must include ⅓ of the payment in gross income for 2018 and the remaining ⅔ of the payment in gross income for 2019.

(ix) *Example 9. Membership Fees.* On December 1, 2018, H, in the business of operating a chain of ''shopping club'' retail stores, receives advance payments for membership fees. Upon payment of the fee, a member is allowed access for a 1-year period to H's stores, which offer discounted merchandise and services. In its AFS, H includes 1/12 of the payment in revenue for 2018 and 11/12 of the payment in revenue for 2019. H uses the deferral method. For federal income tax purposes, H must include 1/12 of the payment in gross income for 2018, and the remaining 11/12 of the payment in gross income for 2019.

(x) *Example 10. Cruise.* In 2018, I, in the business of operating tours, receives payments from customers for a 10-day cruise that will take place in April 2019. Under the agreement, I charters a cruise ship, hires a crew and a tour guide, and arranges for entertainment and shore trips for the customers. In its AFS, I includes the payments in revenue for 2019. I uses the deferral method. For federal income tax purposes, I must include the payments in gross income for 2019.

(xi) *Example 11. Travel agent services.* On November 1, 2018, J, a travel agent, receives payment from a customer for an airline flight that will take place in April 2019. J purchases and delivers the airline ticket to the customer

on November 14, 2018. J retains a portion of the customer's payment (the excess of the customer's payment over the cost of the airline ticket) as its commission. Because J is not required to provide any services after the ticket is delivered to the customer, J earns its commission when the airline ticket is delivered. The customer may cancel the flight and receive a refund from J only to the extent the airline itself provides refunds. In its AFS, J includes its commission in revenue for 2019. The commission is not an advance payment because the payment is not earned by J, in whole or in part, in a subsequent taxable year. Thus, J may not use the deferral method for this payment.

(xii) *Example 12. Broadcasting Rights.* K, a professional sports franchise, is a member of a sports league that enters into contracts with television networks for the right to broadcast games to be played between teams in the league. The money received by the sports league under the contracts is divided equally among the member teams. The league entered into a 3-year broadcasting contract beginning October 1, 2018. K receives three equal installment payments on October 1 of each contract year, beginning in 2018. In its AFS, K includes ¼ of the first installment payment in revenue for 2018 and ¾ in revenue for 2019; K includes ¼ of the second installment in revenue for 2019 and ¾ in revenue for 2020; K includes ¼ of the third installment in revenue for 2020 and ¾ in revenue for 2021. K uses the deferral method. Each installment payment constitutes an advance payment under paragraph (b)(1) of this section. For federal income tax purposes, K must include ¼ of the first installment payment in gross income for 2018 and ¾ in gross income for 2019; ¼ of the second installment in gross income for 2019 and ¾ in gross income for 2020; and ¼ of the third installment in gross income for 2020 and ¾ in gross income for 2021.

(xiii) *Example 13. Insurance Claims Administration.* L is in the business of negotiating, placing, and servicing insurance coverage and administering claims for insurance companies. On December 1, 2018, L enters into a contract with an insurance company to provide property and casualty claims administration services for a 4-year period beginning January 1, 2019. Pursuant to the contract, the insurance company makes four equal annual payments to L; each payment relates to a year of service and is made during the month prior to the service year (for example, L is paid on December 1, 2018, for the service year beginning January 1, 2019). In its AFS, L includes the first payment in revenue for 2019; the second payment in revenue for 2020; the third payment in revenue for 2021; and the fourth payment in revenue for 2022. L uses the deferral method. Each annual payment constitutes an advance payment under paragraph (b)(1) of this section. For federal income tax purposes, L must include the first payment in gross income for 2019; the second payment in gross income for 2020; the third payment in gross income for 2021; and the fourth payment in gross income for 2022.

(xiv) *Example 14. Internet Services.* M is a cable internet service provider that enters into contracts with subscribers to provide internet services for a monthly fee (paid prior to the service month). For those subscribers who do not own a compatible modem, M provides a rental cable modem for an additional monthly charge (also paid prior to the service month). Pursuant to the contract, M will replace or repair the cable modem if it proves defective during the contract period. In December 2018, M receives payments from subscribers for January 2019 internet service and cable modem use. In its AFS, M includes the entire amount of these payments in revenue for 2019. M uses the deferral method. Because a subscriber's use of a cable modem is ancillary to the provision of internet services by M, and because the cable modem warranty is ancillary to the use of the cable modem, the payments are advance payments. For federal income tax purposes, M must include the advance payments in gross income for 2019.

(xv) *Example 15. License Agreement.* On January 1, 2019, N enters into, and receives advance payments pursuant to, a 5-year license agreement for the use of N's trademark. Under the contract, the licensee pays N both the first-year (2019) license fee and the fifth-year (2023) license fee upon commencement of the agreement. The fees for the second, third, and fourth years are payable on January 1 of each license year. The contract provides the customer with access to N's trademark throughout the term of the agreement. In its AFS, N includes the fees in revenue for the respective license year. N uses the deferral method. For federal income tax purposes, N must include the first-year license fee in gross income for 2019, the second-year and the fifth-year license fee in gross income for 2020, the third-year license fee in gross income for 2021, and the fourth-year license fee in gross income for 2022.

(xvi) *Example 16. Computer Software Subscription.* On July 1, 2018, O, in the business of licensing computer software (off the shelf, fully customized, and semi-customized) and providing customer support, receives an advance payment for a 2-year ''software subscription contract'' under which O will provide software updates if it develops an update within the contract period, as well as online and telephone customer support. In its AFS, O includes ¼ of the payment in revenue for 2018, ½ in revenue for 2019, and the remaining ¼ in revenue for 2020, regardless of when O provides updates or customer support. O uses the deferral method. For federal income tax purposes, O must include ¼ of the payment in gross income for 2018 and ¾ in gross income for 2019.

(xvii) *Example 17. Performance Obligation.* P is in the business of licensing computer software (off the shelf, fully customized, and semi-customized) and providing customer support. On July 1, 2018, P receives an advance payment of $100 for a 2-year software subscription that includes a 1-year ''software maintenance contract'' under which P will provide integral software updates within the contract period, as well as a ''customer support agreement'' for online and telephone customer support. In its AFS, P allocates $80 of the payment to the subscription agreement and $20 to the customer support agreement. With respect to the $80 allocable to the subscription agreement, P includes ¼ ($20) in revenue for 2018, ½ ($40) in revenue for 2019, and the remaining ¼ ($20) in revenue for 2020. With respect to the $20 allocable to the customer support agreement, P includes ½ ($10) in revenue for 2018, and the remaining ½ ($10) in revenue for 2019 regardless of when P provides the customer support. For federal income tax purposes, P must include $30 in gross income for 2018 ($20 allocable to the subscription agreement and $10 allocable to the customer support agreement) and the remaining $70 in gross income for 2019.

(xviii) *Example 18. Gift Cards Administered by Another.* Q corporation operates department stores. U corporation, V corporation, and W corporation are wholly owned domestic subsidiaries of Q that file a consolidated federal income tax return with Q. X corporation is a controlled foreign subsidiary of Q that is prohibited from filing a consolidated return with Q. U sells Brand A goods, V sells Brand B goods, X sells Brand C goods, and Z is an unrelated entity that sells Brand D goods. W administers a gift card program for the Q consolidated group, X, and Z. Pursuant to the underlying agreements, W issues gift cards that are redeemable for goods or services offered by U, V, X, and Z. In addition, U, V, X, and Z sell gift cards to customers on behalf of W and remit amounts received to W. The agreements provide that W is primarily liable to the customer for the value of the gift card until redemption, and U, V, X, and Z are obligated to accept the gift card as payment for goods or services. When a customer purchases goods or services with a gift card at U, V, X, or Z, W reimburses that entity for the sales price of the goods or services purchased with the gift card, up to the total gift card value. In 2018, W sells gift cards with a total value of $900,000, and, at the end of 2018, the unredeemed balance of the gift cards is $100,000. In the consolidated group's AFS, the group includes revenue from the sale of a gift card when the gift card is redeemed. W tracks sales and redemptions of gift cards electronically, is able to determine the extent to which advance payments are included in revenue in its consolidated AFS for the taxable year of receipt, and meets the requirements of paragraph (c)(1) of this section. The payments W receives from the sale of gift cards are advance payments because they are payments for eligible gift cards. Thus, W is eligible to use the deferral method. At the end of 2018, W includes $800,000 in income in its consolidated AFS. Under the deferral method, W must include $800,000 of the payments from gift card sales in gross income in 2018 and the remaining $100,000 of the payments in gross income in 2019.

(xix) *Example 19. Gift Cards of Affiliates.* R is a Subchapter S corporation that operates an affiliated restaurant corporation and manages other affiliated restaurants. These other restaurants are owned by other Subchapter S corporations, partnerships, and limited liability companies. R has a partnership interest or an equity interest in some of the restaurants. R administers a gift

card program for participating restaurants. Each participating restaurant operates under a different trade name. Under the gift card program, R and each of the participating restaurants sell gift cards, which are issued with R's brand name and are redeemable at all participating restaurants. Participating restaurants sell the gift cards to customers and remit the proceeds to R, R is primarily liable to the customer for the value of the gift card until redemption, and the participating restaurants are obligated under an agreement with R to accept the gift card as payment for food, beverages, taxes, and gratuities. When a customer uses a gift card to make a purchase at a participating restaurant, R is obligated to reimburse that restaurant for the amount of the purchase, up to the total gift card value. In R's AFS, R includes revenue from the sale of a gift card when a gift card is redeemed at a participating restaurant. R tracks sales and redemptions of gift cards electronically, is able to determine the extent to which advance payments are included in revenue in its AFS for the taxable year of receipt, and meets the requirements of paragraph (c)(1) of this section. The payments R receives from the sale of gift cards are advance payments because they are payments for eligible gift card sales. Thus, for federal income tax purposes, R is eligible to use the deferral method. In the taxable year of receipt, R must include the advance payment in income to the extent included in its AFS, and must include any remaining amount in income in the taxable year following the taxable year of receipt.

(xx) *Example 20. Gift Cards for Domestic and International Hotels.* S is a corporation that operates for the benefit of its franchisee members, who own and operate domestic and international individual member hotels. S collects membership fees from the member hotels in exchange for providing a wide variety of management support services, which include making reservations for customers at the various member hotels. S also administers a gift card program for its members by selling gift cards that may be redeemed for hotel rooms and food or beverages provided by any member hotel. The agreements underlying the gift card program provide that S is entitled to the proceeds from the sale of the gift cards, must reimburse the member hotel for the value of a gift card redeemed, and until redemption remains primarily liable to the customer for the value of the card. In S's AFS, S includes payments from the sale of a gift card when the card is redeemed. S tracks sales and redemptions of gift cards electronically, is able to determine the extent to which advance payments are included in revenue in its AFS for the taxable year of receipt, and meets the requirements of paragraph (c)(1) of this section. The payments S receives from the sale of gift cards are advance payments because they are payments for eligible gift card sales. Thus, for federal income tax purposes, S is eligible to use the deferral method. In the taxable year of receipt, S must include in income the advance payment to the extent included in its AFS, and must include any remaining amount in income in the taxable year following the taxable year of receipt.

(xxi) *Example 21. Discount Voucher.* On December 10, 2018, T, in the business of selling home appliances, sells a washing machine for $500. As part of the sale, T gives the customer a 40 percent discount voucher for any future purchases of T's goods up to $100 in the next 60 days. In its AFS, T treats the discount voucher as a separate performance obligation and allocates $30 of the $500 sales price to the discount voucher. T includes $12 of the amount allocated to the discount voucher in revenue for 2018 and includes $18 of the discount voucher in revenue for 2019. T uses the deferral method. For federal income tax purposes, T must include the $12 allocable to the discount voucher in gross income in 2018 and the remaining $18 allocated to the discount voucher in gross income in 2019.

(xxii) *Example 22. Rewards.* On December 31, 2018, U, in the business of selling consumer electronics, sells a new TV for $1,000 and gives the customer 50 reward points. Each reward point is redeemable for a $1 discount on any future purchase of U's products. The reward points are not redeemable for cash and have a 2-year expiration date. U tracks each customer's reward points and does not sell reward points separately. In its AFS, U treats the rewards points as a separate performance obligation and allocates $45 of the $1,000 sales price to the rewards points. U does not include any of the amount allocated to the reward points in revenue for 2018. U includes $25 of the reward points in revenue for 2019 and $20 of the reward points in revenue for 2020. U uses the deferral method. For federal income tax purposes, U does not include any amount of the reward points in gross income in 2018, and includes the entire $45 allocated to the reward points in gross income in 2019.

(xxiii) *Example 23. Credit Card Rewards.* V, a wholly owned credit card company, issues credit cards. V also has a loyalty program in which cardholders earn reward points for the use of its credit card to make purchases. Each reward point is redeemable for a $1 on any future purchases. V may not use the deferral method because payments under credit card agreements including rewards for credit card purchases are excluded from the definition of an advance payment under paragraph (b)(1)(ii)(C) of this section.

(xxiv) *Example 24. Airline Reward Miles.* On January 1, 2018, W, in the business of transporting passengers on airplanes, sells a customer a $700 airline ticket to fly roundtrip in 2018. As part of the purchase, the customer also receives 7,000 points (air miles) from W to be used for future air travel. In its AFS, W allocates $665 to the roundtrip airfare and $35 to the air miles. In its AFS, the $665 allocated to the airfare is included in Year 1 when the customer takes the roundtrip flight. The $35 allocated to the air miles is deferred and included in Year 3 when the customer redeems the air miles. W uses the deferral method described in paragraph (c) of this section. For federal income tax purposes, the $665 is included in gross income in Year 1 and the $35 allocated to the air miles is included in gross income in Year 2.

(xxv) *Example 25. Chargebacks.* Taxpayer X, a manufacturer of pharmaceuticals, is a calendar-year accrual method taxpayer with an AFS. In addition to billing the wholesaler for the sale of the pharmaceuticals at the wholesale acquisition cost under the contract, X generally credits or pays wholesalers a chargeback of 40% of the wholesale acquisition cost for sales made by those wholesalers to qualifying customers. In 2018, X enters into a contract to sell 1,000 units to W, a wholesaler, for $10 per unit, totaling $10,000 (1,000 × $10 = $10,000). The contract also provides that X will issue a 40% chargeback for sales by W to certain qualifying customers. X delivers 600 units to W on December 31, 2018, and bills W $6,000 under the contract. For AFS purposes, X adjusts its revenue by 40% for all sales to W for anticipated chargebacks. As such, in its 2018 AFS, X reports $3,600 ($6,000 − $2,400 = $3,600) of revenue from the contract with W, decreasing revenue by $2,400 (40% × $6,000 = $2,400) for anticipated chargeback claims. For federal income tax purposes, under proposed § 1.451–3(c)(4), X's 2018 revenue is $6,000 because revenue is not reduced for anticipated chargebacks. Because no portion of the $6,000 is included in revenue on an AFS in a subsequent taxable year (that is, on an AFS after 2018), none of the $6,000 is an advance payment under paragraph (b)(1)(i) of this section.

(d) *Deferral method for taxpayers without an AFS (non-AFS deferral method)*—(1) *In general.* Only a taxpayer described in paragraph (d)(2) of this section may elect to use the non-AFS deferral method described in paragraph (d)(4) of this section.

(2) *Taxpayers eligible to use the non-AFS deferral method.* A taxpayer is eligible to use the non-AFS deferral method if the taxpayer does not have an applicable financial statement as defined in proposed § 1.451–3(c)(1) and is able to determine the extent to which advance payments are earned in the taxable year of receipt, or a short taxable year, if applicable.

(3) *Advance payment.* For purposes of the non-AFS deferral method, in applying paragraph (b)(1)(i)(B) of this section, an advance payment is any portion of the payment received that is earned by the taxpayer, in whole or in part, in a subsequent taxable year.

(4) *Deferral of advance payments based on when payment is earned*—(i) *In general.* The non-AFS deferral method described in this paragraph (d) is a permissible method of accounting that may be used only by a taxpayer described in paragraph (d)(2) of this section. Under the non-AFS deferral method of accounting, a taxpayer includes the advance payment in gross income for the taxable year of receipt, including, if applicable, a short taxable year described in paragraph (d)(8) of this section, to the extent that it is earned in that taxable year and includes

the remaining portion of the advance payment in gross income in the next succeeding taxable year.

(ii) *When payment is earned.* A payment is earned when the all events test described in § 1.451–1(a) is met, without regard to when the amount is received, as defined under paragraph (b)(5) of this section, by the taxpayer. If a taxpayer is unable to determine the extent to which a payment is earned in the taxable year of receipt, the taxpayer may determine that amount:

(A) On a statistical basis if adequate data are available to the taxpayer;

(B) On a straight line ratable basis over the term of the agreement if the taxpayer receives advance payments under a fixed term agreement and if it is not unreasonable to anticipate at the end of the taxable year of receipt that the advance payment will be earned ratably over the term of the agreement; or

(C) By the use of any other basis that in the opinion of the Commissioner results in a clear reflection of income.

(5) *Contracts with multiple obligations*—(i) *In general.* If a taxpayer receives a payment that is attributable to more than one item described in paragraph (b)(1)(i)(C) of this section, the taxpayer must allocate the payment to such items in a manner that is based on objective criteria.

(ii) *Objective criteria.* A taxpayer's allocation method with respect to a payment described in paragraph (d)(5)(i) of this section is based on objective criteria if the allocation method is based on payments the taxpayer regularly receives for an item or items it regularly sells or provides separately or any method that may be provided in guidance published in the Internal Revenue Bulletin (*see* § 601.601(d) of this chapter).

(6) *Acceleration of advance payments.* For purposes of this paragraph (d), the acceleration rules provided in paragraph (c)(2) of this section apply to a taxpayer that uses the non-AFS deferral method.

(7) *Advance payments in certain acquisitions and other financial statement adjustments.* For purposes of this paragraph (d), the rules provided in paragraph (c)(3) of this section apply to a taxpayer that uses the non-AFS deferral method.

(8) *Short taxable year rule.* For purposes of this paragraph (d), the short taxable year rule provided in paragraph (c)(4) of this section applies to a taxpayer that uses the non-AFS deferral method.

(9) *Eligible gift card sale.* For purposes of paragraphs (b)(1)(i)(B) and (d)(4) of this section, if an eligible gift card is redeemable by an entity described in paragraph (b)(3)(ii), including an entity whose financial results are not included in the taxpayer's financial statement, a payment will be treated as earned by the taxpayer to the extent the gift card is redeemed by the entity during the taxable year.

(10) *Examples.* The rules of this paragraph (d) are illustrated by the examples in paragraphs (d)(10)(i) and (ii). In each of these examples, the taxpayer uses the non-AFS deferral method described in this paragraph (d).

(i) *Example 1.* A, a video arcade operator, receives payments in 2018 for game tokens that are used by customers to play the video games offered by A. The tokens cannot be redeemed for cash. The tokens are imprinted with the name of the video arcade, but they are not individually marked for identification. A completed a study on a statistical basis, based on adequate data available to A, and concluded that for payments received in the current year, x percent of tokens are expected to be used in the current year, y percent of tokens are expected to be used in the next year, and the remaining z percent of tokens are expected to never be used. Based on the study, A treats as earned for 2018 x percent (for tokens expected to be used in that year) as well as z percent (for tokens that are expected to never be used). Using the study, A determines the extent to which advance payments are earned in the taxable year of receipt. A may determine the extent to which a payment is earned in the taxable year of receipt on a statistical basis provided that any portion that is not included in the taxable year of receipt is included in the next succeeding taxable year. Thus, for federal income tax purposes, A must include x percent and z percent of the advance payments in gross income for 2018 and y percent of the advance payments in gross income for 2019.

(ii) *Example 2.* B is in the business of providing internet services. On September 1, 2018, B receives an advance payment from a customer for a 2-year term for access to its internet services, beginning on that date. B does not have an AFS. B is unable to determine the extent to which the payment is earned in the taxable year of receipt. For federal income tax purposes, B may determine the extent to which the payment is earned in the year of receipt on a straight line ratable basis over the term of the agreement if it is not unreasonable to anticipate at the end of the taxable year of receipt that the advance payment will be earned ratably over the term of the agreement.

(e) *Method of accounting.* The use of the deferral method under paragraph (c) of this section or the non-AFS deferral method under paragraph (d) of this section is the adoption of, or a change in, a method of accounting under section 446 of the Internal Revenue Code or the accompanying regulations. In addition, a change in the manner of recognizing advance payments in revenue in an AFS that changes or could change the timing of the inclusion of income for federal income tax purposes is a change in method of accounting under section 446 and the accompanying regulations. A taxpayer may change its method of accounting to use the methods described in paragraphs (c) or (d) of this section, or change its manner of recognizing advance payments in revenue in an AFS only with the consent of the Commissioner as required under section 446(e) and the corresponding regulations.

(f) *Applicability date.* The rules of this section are applicable for taxable years beginning on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**. Until the date the Treasury decision adopting these regulations as final regulations is published in the **Federal Register**, a taxpayer may rely on these proposed regulations for taxable years beginning after December 31, 2017, provided that the taxpayer applies all the applicable rules contained in these proposed regulations, and consistently applies these proposed regulations to all advance payments. See section 7805(b)(7).

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2019–19197 Filed 9–5–19; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–104870–18]

RIN 1545–BO68

Taxable Year of Income Inclusion Under an Accrual Method of Accounting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations regarding the timing of income inclusion under section 451 of the Internal Revenue Code (Code). The proposed regulations reflect changes made by the Tax Cuts and Jobs Act. These proposed regulations affect taxpayers that use an accrual method of accounting and have an applicable financial statement.

DATES: Written or electronic comments and requests for a public hearing must be received by November 8, 2019.

ADDRESSES: Send submissions to Internal Revenue Service, CC:PA:LPD:PR (REG–104870–18), Room 5205, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to Courier's Desk, Internal Revenue Service, CC:PA:LPD:PR (REG–104870–18), 1111 Constitution Avenue NW, Washington, DC 20224. Alternatively, persons may submit comments electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–104870–18).

FOR FURTHER INFORMATION CONTACT: Concerning §§ 1.446–2, 1.451–3(d)(2), 1.451–3(i), 1.1275–2(l), and any other provisions within the jurisdiction of the Associate Chief Counsel (Financial Institutions and Products), Charles Culmer, (202) 317–4528; concerning the rest of the proposed regulations, Charles Gorham, (202) 317–5091; concerning submissions of comments and requests for a public hearing, Regina L. Johnson, (202) 317–6091 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to 26 CFR part 1 under section 451(b). On December 22, 2017, section 451(b) was amended by section 13221 of the Tax Cuts and Jobs Act, Public Law 115–97 (131 Stat. 2054) (the Act) to provide that, for a taxpayer using an accrual method of accounting, the all events test with respect to any item of gross income (or portion thereof) is not treated as met any later than when the item (or portion thereof) is included in revenue for financial accounting purposes on an applicable financial statement (AFS) or other financial statement specified by the Secretary. The amendments made to section 451(b) do not change the time at which income subject to the all events test is taken into income for accrual method taxpayers without an AFS or other specified financial statement. Unless otherwise indicated, all references to section 451(b) hereinafter are references to section 451(b), as amended by the Act.

In general, section 451 provides that the amount of any item of gross income is included in gross income for the taxable year in which it is received by the taxpayer, unless, under the method of accounting used in computing taxable income, the amount is to be properly accounted for as of a different period. Under § 1.451–1, accrual method taxpayers generally include items of income in gross income in the taxable year when all the events occur that fix the right to receive the income and the amount of the income can be determined with reasonable accuracy (the all events test). All the events that fix the right to receive income occur when (1) the required performance takes place, (2) payment is due, or (3) payment is made, whichever happens first. Revenue Ruling 2003–10 (2003–1 CB 288); Revenue Ruling 84–31 (1984–1 CB 127); Revenue Ruling 80–308 (1980–2 CB 162).

On April 12, 2018, the Treasury Department and the IRS issued Notice 2018–35 (2018–18 IRB 520) requesting, in part, comments on future guidance under section 451(b). The record of public comments received in response to Notice 2018–35 may be requested by sending an email to *Notice.comments@irscounsel.treas.gov*. This document provides guidance on the application of section 451(b) taking into account comments that were received regarding section 451(b). The application of section 451(c) is addressed in separate guidance published in the same issue of the **Federal Register** as these proposed regulations.

Explanation of Provisions

The proposed regulations describe and clarify the statutory requirements of section 451(b) by providing new § 1.451–3.

1. Applicability of Section 451(b)(1)

Section 451(b)(1) generally provides that, for an accrual method taxpayer with an AFS or other specified financial statement, the all events test with respect to any item of gross income, or portion thereof, is not treated as met any later than when such item, or portion thereof, has been taken into account as revenue in an AFS or other specified financial statement (the AFS income inclusion rule). The AFS income inclusion rule generally increases financial accounting and tax accounting conformity. On May 28, 2014, the Financial Accounting Standards Board (FASB) and the International Accounting Standards Board (IASB) jointly announced new financial accounting standards for revenue recognition, titled ''Revenue from Contracts with Customers (Topic 606).'' See ASC Topic 606 and IASB International Financial Reporting Standard (IFRS) 15 (New Standards). Under the New Standards, items of income may be included as revenue in an AFS earlier than they would have been included in income under the all events test prior to the Act.

A. Taxpayers Subject to the AFS Income Inclusion Rule

The proposed regulations clarify how the AFS income inclusion rule applies to accrual method taxpayers with an AFS. Some taxpayers use an accrual method of accounting for all applicable items of income (overall accrual method taxpayers) and others use an accrual method of accounting for only some items of income. Both types of taxpayers (collectively, accrual method taxpayers) compute taxable income, at least in part, under an accrual method. Accordingly, proposed § 1.451–3(b) provides that the AFS income inclusion rule generally applies to accrual method taxpayers with an AFS when the timing of income inclusion for one or more items of income is determined using the all events test.

The proposed regulations do not include special rules regarding the applicability of the AFS income inclusion rule to foreign persons. The Treasury Department and the IRS are aware that applying the AFS income inclusion rule to a controlled foreign corporation (CFC) may create mismatches between the CFC's taxable income for U.S. Federal and foreign tax purposes. As a result, certain taxpayers may lose the ability to credit foreign taxes imposed on a CFC's income, particularly where such taxes relate to amounts includible in gross income under section 951A and are therefore ineligible to be carried back or forward under section 904(c). Comments are requested regarding whether special rules are needed to address the applicability of the AFS income inclusion rule to foreign persons, including whether and how the rules for determining the taxable income of a CFC can be adjusted to better align the U.S. Federal and foreign income tax bases.

B. Exceptions to the AFS Income Inclusion Rule

Proposed § 1.451–3(d)(1) clarifies that the AFS income inclusion rule applies only to taxpayers that have one or more AFS covering the entire taxable year. This approach is consistent with the exception in section 451(b)(1)(B)(i), which provides that the AFS income inclusion rule does not apply to taxpayers without an AFS for a taxable year. In addition, some accrual method taxpayers may have an AFS in one taxable year and no AFS in another taxable year. To address this situation, the proposed regulations provide that the AFS income inclusion rule applies on a year-by-year basis and, therefore, an accrual method taxpayer with an

AFS in one taxable year that does not have an AFS in another taxable year must apply the AFS income inclusion rule in the taxable year that it has an AFS, and does not apply the rule in the taxable year in which it does not have an AFS.

Consistent with section 451(b)(1)(B)(ii), proposed § 1.451–3(d)(2) also provides that the AFS income inclusion rule does not apply to items of income in connection with a mortgage servicing contract. A letter addressed to the Treasury Department indicated that it is unclear whether this exclusion can be applied to income relating to interest rate lock commitments (IRLCs) entered into by mortgage lenders. The proposed regulations do not address this issue because section 475 generally would require mortgage lenders to include income relating to IRLCs in taxable income in accordance with the mark-to-market method of accounting. As a result, a mortgage lender generally would not apply section 451(b) to determine when income relating to IRLCs is includible in income.

C. Transactions Treated Differently for Federal Income Tax and AFS Purposes

Except as provided in proposed § 1.451–3(e), proposed § 1.451–3(e) clarifies that the AFS income inclusion rule does not change the treatment of a transaction for Federal income tax purposes. The treatment of a transaction or event in a taxable year may be different for Federal income tax and AFS purposes. For example, a rental agreement that is treated as a lease for Federal income tax purposes may be treated as a sale or financing for AFS purposes, or vice versa. Similarly, a transaction that is deemed to occur (for example, under a mark-to-market method) for AFS purposes may not be deemed to occur for Federal income tax purposes. The AFS income inclusion rule generally was not intended to require taxpayers to recharacterize a transaction for Federal income tax purposes to conform to the characterization of the transaction in the taxpayer's AFS. As stated in the Conference Report, ''The provision does not revise the rules associated with when an item is realized for Federal income tax purposes and, accordingly, does not require the recognition of income in situations where the Federal income tax realization event has not yet occurred.'' H.R. Rep. No. 115–466, at 428 fn. 872 (2017) (Conf. Rep.).

However, as also stated in the Conference Report, the AFS income inclusion rule was intended to include unbilled receivables for partially performed services:

> ''Under the provision, an accrual method taxpayer with an applicable financial statement will include an item in income under section 451 upon the earlier of when the all events test is met or when the taxpayer includes such item in revenue in an applicable financial statement. For example, under the provision, any unbilled receivables for partially performed services must be recognized to the extent the amounts are taken into income for financial statement purposes.''

H.R. Rep. No. 115–466, at 428 fn. 874 (2017) (Conf. Rep.). Commenters suggested that the intent to include unbilled receivables conflicts with the intent to not change the treatment of a transaction to match the taxpayer's AFS treatment. The Treasury Department and the IRS do not agree. In applying the AFS income inclusion rule to unbilled receivables, a taxpayer is not changing the treatment of the transaction when it includes in income amounts included in its AFS. Moreover, these proposed regulations also apply to unbilled receivables for the sale of goods because there is no distinction in section 451(b) between unbilled receivables for services and unbilled receivables for the sale of goods, and service providers and sellers of goods that are including unbilled receivables in revenue for AFS purposes should be treated similarly for Federal income tax purposes under section 451(b). Accordingly, the proposed regulations provide that the AFS inclusion rule applies to unbilled receivables included in revenue for AFS purposes related to both services and goods.

Commenters raised concerns about the interaction between sections 61 and 461 with the AFS income inclusion rule. For AFS purposes, taxpayers may be required to include variable consideration when determining the transaction price of a contract. Under the New Standards, variable consideration includes items such as discounts, rebates, refunds, credits, price concessions, incentives, performance bonuses, penalties, and other similar items. Variable consideration may also include promised consideration that taxpayers are not yet entitled to under the contract because it is contingent on the occurrence or nonoccurrence of a future event. For Federal income tax purposes, these items of variable consideration may be contingent future income under section 61 or liabilities subject to section 461. Section 451(b) could be read to accelerate the timing of contingent future income and liabilities to match their inclusion in revenue for AFS purposes. However, section 451(b) was intended to change only the timing of income to ensure that those items of income are not included later than when they are included for AFS purposes. See H.R. Rep. No. 115–466, at 428 fn. 874 (2017) (Conf. Rep.) and Joint Committee on Taxation, General Explanation of Public Law 115–97 (JCS–1–18) at 166 (Dec. 20, 2018). Accordingly, proposed § 1.451–3(c)(6) provides that the transaction price that is used to determine whether an amount has been included in revenue does not include items to which a taxpayer's entitlement is contingent on the occurrence or nonoccurrence of a future event, reductions for amounts subject to section 461 (including allowances, adjustments, rebates, chargebacks, refunds, rewards, and amounts included in the cost of goods sold), and amounts collected for third parties. However, in order to reduce compliance burden and prevent abuse and undue administrative burden, proposed § 1.451–3(c)(6) presumes that an amount included in the transaction price for AFS purposes is not contingent future income unless, upon examination of all of the facts and circumstances existing at the end of the taxable year, it can be established to the satisfaction of the Commissioner that the amount is contingent on the occurrence or nonoccurrence of a future event.

In addition, section 451(b) was intended to accelerate income inclusion when (i) the taxpayer's customer controls the asset that is created or enhanced, or (ii) the taxpayer has a right to partial payment, even when a contract requires delivery, acceptance, and title transfer before a taxpayer can bill its customer. See Examples 2 and 4 of the Joint Committee on Taxation, General Explanation of Public Law 115–97 (JCS–1–18) at 162–163 (Dec. 20, 2018). Accordingly, proposed § 1.451–3(c)(6)(ii) provides that an amount included in the transaction price for AFS purposes may not be treated as contingent on the occurrence or nonoccurrence of a future event if the taxpayer has been paid or has an equitable, contractual, or other right to partial payment for performance completed to date. Additionally, proposed § 1.451–3(c)(6)(iii) provides that transaction price may not be reduced for amounts subject to section 461, including, in the case of credit card transactions, reward amounts.

Comments are requested on the interaction among sections 61, 461, and 451(b), and specific situations in which future contingent income and liabilities might be included in revenue for AFS purposes. Comments are requested, for

example, on the applicability of the proposed rules to escalating rental agreements not subject to section 467, where amounts included in revenue in an AFS as rent for one year of a multi-year rental agreement exceed actual rent received for that year. Specifically, does the excess of the amount included in revenue as rent over the amount of actual rent in a particular year represent a contingency or merely an allocation of the overall transaction price? Comments are requested on the extent to which certain contract terms might affect the result. Comments also are requested on the proposed presumption that the AFS income inclusion rule should apply when an item is included in revenue in an AFS and what a taxpayer should be required to demonstrate in order to successfully rebut the presumption. Finally, comments are requested on how reassessments of variable consideration after the taxable year of the commencement of the contract should be treated for Federal income tax purposes.

D. Interaction With Exclusion Provisions and Effect on Non-Recognition Transactions

Commenters noted that the AFS income inclusion rule may appear to overturn numerous exclusion provisions and adversely affect the treatment of non-recognition transactions in the Code. For example, the AFS income inclusion rule could be read to apply to a transaction that is treated as a sale of property with profit or loss for AFS purposes but that is treated as a reorganization under section 368 for Federal income tax purposes. The proposed regulations clarify that the AFS income inclusion rule does not change the applicability of any exclusion provision, or the treatment of non-recognition transactions, in the Code, the Income Tax Regulations, or other guidance published in the Internal Revenue Bulletin, consistent with Congressional intent that the provision does not revise the rules associated with the time at which an item is realized for Federal income tax purposes. H.R. Rep. No. 115–466, at 428 fn. 872 (2017) (Conf. Rep.) and Joint Committee on Taxation, General Explanation of Public Law 115–97 (JCS–1–18) at 166 (Dec. 20, 2018).

E. Special Methods of Accounting

Section 451(b)(2) provides that the AFS income inclusion rule does not apply to any item of gross income for which the taxpayer uses a special method of accounting provided under any provision of Chapter 1, other than any provision of part V of subchapter P. Commenters raised questions about the interaction between the AFS income inclusion rule and special methods of accounting. In response, proposed § 1.451–3(b) amplifies the meaning of the term ''special method of accounting'' and, except as provided in proposed § 1.451–3(b), provides that the AFS income inclusion rule does not apply to any item of income, or portion of an item of income, when the timing of income inclusion is determined under a required or permitted special method of accounting used for Federal income tax purposes. The proposed regulations also clarify that when a taxpayer uses a special method of accounting, the special method of accounting determines the timing of the income inclusion. The proposed regulations provide a non-exclusive list of examples of special methods of accounting. In addition, the proposed regulations make clear that because the AFS income inclusion rule affects the time at which the all events test is met, the rule applies only to items of income that are subject to the all events test. For a discussion of special methods of accounting under the provisions of part V of subchapter P (relating to income from certain debt instruments), see section 7 of this preamble.

2. Application of the AFS Income Inclusion Rule to Multi-Year Contracts

Section 451(b) does not address how to apply the AFS income inclusion rule and all events test to a multi-year contract. Proposed § 1.451–3(k) provides that a taxpayer with a multi-year contract applies the all events test by applying a cumulative approach reflecting amounts previously included under section 451 rather than an annualized approach.

An annualized approach would look at payments received in each taxable year in isolation and compare the amounts included in the taxpayer's AFS and under the all events test to determine whether an amount should be included for Federal income tax purposes. This approach would generally result in an overall acceleration of income relative to income included in revenue for AFS purposes, could cause amounts to be included for Federal income tax purposes earlier than under a contract's terms, and could result in double counting of income. Section 451(b)(1) does not require this treatment.

A cumulative approach better reflects the economic reality of a multi-year transaction. Accordingly, the proposed regulations require taxpayers to take into account the cumulative amounts previously included in prior taxable years in determining a given contract year's income inclusions under section 451(b)(1). Comments are requested regarding the treatment of multi-year contracts under the AFS income inclusion rule.

3. Applicable Financial Statement (AFS)

The proposed regulations describe and clarify the definition of AFS under section 451(b)(3). Section 451(b)(3) generally defines AFS to mean financial statements prepared according to generally accepted accounting principles (GAAP financial statements), certain financial statements prepared according to international financial reporting standards (IFRS financial statements), and financial statements filed with certain regulatory or government bodies. Section 451(b)(1)(A)(ii) provides the Secretary with authority to specify other financial statements for purposes of section 451(b)(1).

The list of financial statements qualifying as an AFS under section 451(b)(3) is similar, but not identical, to the list of financial statements in Revenue Procedure 2004–34 (2004–1 CB 991). The general priority for identifying the AFS in section 451(b)(3)(A) through (C) is similar to the priority provided in Revenue Procedure 2004–34. Certain financial statements that have traditionally been treated as AFS under Revenue Procedure 2004–34, such as IFRS financial statements used for (1) credit purposes, (2) reporting to shareholders, partners, or other proprietors or to beneficiaries, and (3) any other substantial nontax purposes, are not expressly included in section 451(b)(3). However, the legislative history indicates that Congress intended for Revenue Procedure 2004–34 to be followed. See H.R. Rep. No. 115–466, at 429 (2017) (Conf. Rep.). Accordingly, proposed § 1.451–3(c)(1) is generally consistent with the list of AFS from Revenue Procedure 2004–34.

The proposed regulations also clarify the financial statements filed with certain regulatory or government bodies that qualify as an AFS under section 451(b)(3)(C), which is similar to section 4.06(3) of Revenue Procedure 2004–34. The proposed regulations clarify that financial statements that are filed with a state government or state agency, or a self-regulatory organization, also qualify as an AFS under section 451(b)(3)(C). For example, the Financial Industry Regulatory Authority and state agencies that regulate insurance companies or public utilities are agencies requiring reports that qualify as an AFS.

Proposed § 1.451–3(h) addresses various issues relating to how financial

results are reported for certain taxpayers. These proposed regulations propose rules consistent with the rules provided in § 1.56–1 because Congress indicated a desire for rules similar to those found in Revenue Procedure 2004–34 and the rules in Revenue Procedure 2004–34 follow certain rules in § 1.56–1. See IRS Announcement 2004–48 (2004–22 IRB 998).

Section 451(b)(5) and proposed § 1.451–3(h)(1), (2), and (3) provide that, for purposes of the general rule in section 451(b)(1), if the financial results of a taxpayer are reported on the AFS, as defined in section 451(b)(3), for a group of entities, such statement shall be treated as the AFS of the taxpayer. When a consolidated or combined AFS or other financial statement lists items separately for each member taxpayer, the amount of revenue attributable to a particular taxpayer is determined based on its respective separately stated item. If the amounts are aggregated, however, the taxpayer must rely on the source documents that were used to create the group's AFS to determine its percentage of each aggregated item reported on the consolidated or combined AFS. The source documents should be used to determine the taxpayer's respective share of revenue on the AFS, so as to properly reflect the correct amount of gross income under section 451(b).

Proposed § 1.451–3(h)(4) provides guidance for taxpayers with a financial reporting period that is different than the taxpayer's taxable year. The proposed regulations provide that the taxpayer must use one of three permissible methods in order to determine whether an item of income has been included in revenue on an AFS. Under one method a taxpayer uses the accounting principles used to create its AFS to determine the items of income to be reported in revenue as if its financial reporting period coincided with its taxable year. Under the second method a taxpayer makes a reasonable estimate of revenue for the pro rata portion of the taxable year for which the financial statement year and taxable year do not align. Under the third method, if a taxpayer's financial accounting year ends five or more months after the end of its taxable year, the taxpayer computes revenue based on the revenue reported on the AFS for the financial accounting year ending within its taxable year.

Proposed § 1.451–3(h)(5) provides guidance on a restatement of a taxpayer's financial statements. The rules generally provide that the taxpayer must determine the reason for the restatement of the AFS. For example, if a taxpayer restates revenue on an AFS and such restatement changes the time at which an item of income or a portion thereof is taken into account as revenue on the AFS, the change constitutes a change in method of accounting under section 446. This rule is consistent with current practice regarding the determination of a change in method of accounting.

The regulations under section 6001 require a taxpayer to keep books and records sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown in an income tax return, which includes the identification of items includible in gross income under section 451. This requirement includes any books and records sufficient to establish a taxpayer's calculation of income when its financial results are included in an AFS of a group of entities.

4. Revenue in an AFS

Proposed § 1.451–3(c)(4) defines the term revenue for purposes of section 451(b)(1) broadly to include all items of income under section 61 (gains, profits, and income for Federal income tax purposes). This definition is consistent with the current application of the all events test under § 1.451–1(a) and ensures greater financial accounting and tax accounting conformity.

One commenter discussed the effect of the New Standards on sections 451(b) and (c). The commenter noted that, under the New Standards, certain revenue may be included earlier than under section 451 prior to amendment by the Act. The commenter also noted that an amount booked to retained earnings should be treated as revenue for purposes of section 451(b) even though that amount may not be shown as book revenue for financial accounting purposes. A narrow reading of the term revenue could result in items of income that are taken into account on an AFS and that otherwise would be required to be included in gross income escaping section 451(b) altogether. For example, taxpayers may include items, or portions of items, in other comprehensive income on an AFS that are excluded from the revenue line(s) on the AFS. Accordingly, a broad reading of revenue ensures that the correct amount of income that is taken into account in an AFS is subject to section 451(b).

Multiple commenters proposed allowing a cost offset when income is included under the AFS income inclusion rule. For example, one commenter suggested that, in determining the amount of income to include under section 451(b), taxpayers selling goods should reduce AFS revenue by the cost of goods sold associated with a sale that does not presently reduce AFS revenue. The commenter acknowledged that costs are not taken into account for Federal income tax purposes until the all events test is satisfied, which includes the economic performance rules under section 461. Because of the resulting inconsistency with sections 461 and 471, these regulations do not follow the commenter's suggestion that a cost offset or cost of goods sold reduction should apply without regard to the economic performance rules of section 461 and inventory accounting rules of section 471.

Congress has addressed various cost recovery mechanisms in the past. In 1955, Congress repealed the reserve method for estimated expenses under section 462 of the Code. See An Act to Repeal Sections 452 and 462 of the Internal Revenue Code of 1954, Public Law 84–74, section 1(b) (1955). Section 462 of the Code was a companion to section 452, which allowed taxpayers to report certain types of prepaid income over time. In the Senate Report discussing the repeal of sections 452 and 462, Congress noted that ''the problem presented by section 462 is that of the timing of deductions when a taxpayer changes accounting methods.'' S. Rep. 84–372, at 4 (1955). The Senate noted that taxpayers would be entitled to the deductions even without section 462. In addition, section 462 increased the possibility of distortions of income because expenses were being deducted when the amount had not yet been incurred.

Thirty years later, Congress repealed the use of the reserve method for determining losses from bad debts under section 166 in the Tax Reform Act of 1986. In repealing the reserve method, Congress noted that this method was inconsistent with the rules for other deductions under the all events test and could result in deductions being allowed for Federal income tax purposes for losses that may never occur. S. Rep. No. 99–313, at 155 (1986). Moreover, ''if a deduction is allowed prior to the taxable year in which the loss occurs, the value of the deduction to the taxpayer will be overstated.'' S. Rep. No. 99–313, at 155 (1986).

These proposed regulations do not allow a cost offset provision because similar potential distortions of income could result. An allowance to account for future cost of goods sold, for future estimated costs, or other cost offsets also is inconsistent with sections 461 (in particular section 461(h)), 263A, and

471, and the regulations under those sections. In addition, these proposed regulations do not allow a cost offset provision because there is nothing in the statute or legislative history that indicates that in amending section 451 Congress intended to change sections 461, 263A or 471, and the regulations under those sections. See also, General Explanation of Public Law 115–97 (JCS–1–18) at 150–151, and 164–165 (Dec. 20, 2018).

Nevertheless, the Treasury Department and the IRS continue to consider whether any exceptions are an appropriate use of the Secretary's authority under section 461(h) or 460. To facilitate further consideration of any potential exceptions, detailed comments that specifically address the following issues are requested:

1. Under what authority would it be appropriate for the Secretary to permit a taxpayer to use a book percentage-of-completion method (PCM) as its tax method? When inventory is involved, what limitations could be instituted to ensure that book PCM could not be used to recover costs related to inventoriable goods prior to the time when such costs could be recovered under sections 471 and 263A? Under what specific authority would it be appropriate to permit a book PCM method to be used to recover costs related to inventoriable goods?

2. Would elective use of book PCM for tax purposes provide an appropriate cost offset? Would such a method be characterized as one that reports contract revenue according to a taxpayer's book method, while accounting for costs, including nondeductible costs, as deductions under the Code? If not, how would such a method account for costs for Federal income tax purposes?

3. Rather than make book PCM elective, would it be appropriate for the definition of ''unique item'' for purposes of section 460 to be expanded?

4. Section 460 requires use of the look-back method to compensate for improper acceleration or deferral of income under PCM. It also requires that all contract income be reported no later than the year following contract completion. Would elective use of a PCM under section 460 without these provisions invite abuse? If so, how could such abuse be prevented?

5. Allocation of Transaction Price

The proposed regulations describe and clarify the allocation of transaction price under section 451(b)(4). Section 451(b)(4) provides that, in the case of a contract with multiple performance obligations, the allocation of the transaction price to each performance obligation shall be equal to the amount allocated to each performance obligation for purposes of including such item in revenue in the AFS of the taxpayer. Consistent with the definition of performance obligation found in the New Standards, proposed § 1.451–3(c)(3) defines ''performance obligation'' to mean a promise in a contract with a customer to transfer to the customer either a good or service (or a bundle of goods or services) that is distinct, or a series of distinct goods or services that are substantially the same and that have the same pattern of transfer to the customer. See ASC Topic 606 and IFRS 15.

Comments are requested on allocation of the transaction price (i) to performance obligations that are not contractually based, (ii) for arrangements that include both income subject to section 451 and long-term contracts subject to section 460, and (iii) when the income realization event for Federal income tax purposes differs from the income realization event for AFS purposes.

6. Taxpayers Including Income Over Time for AFS Purposes

Commenters proposed allowing taxpayers that include items of income as revenue in an AFS over a period of time under the New Standards (AFS over-time method) to follow that method for Federal income tax purposes. Allowing taxpayers to follow their AFS over-time method for Federal income tax purposes would potentially defer income beyond what is permitted under section 451(b), section 451(c), and the all events test. The AFS income inclusion rule operates only to accelerate income inclusion; the AFS income inclusion rule can never cause income inclusion to occur later than when the all events test is satisfied. Allowing taxpayers to follow their AFS over-time method for Federal income tax purposes may also affect the treatment of costs in a manner that is inconsistent with sections 461 and 471. However, the Treasury Department and the IRS continue to study the commenters' proposal and request additional comments on this issue. Specifically, additional comments are requested regarding: The size of taxpayers likely to be affected; the industries likely to be affected; the number of taxpayers likely to be affected; the compliance burden and administrative complexity likely to be avoided; and the degree to which an over-time method under the New Standards accelerates or defers income relative to the all events test and the AFS income inclusion rule.

7. Rules for Certain Debt Instruments

A. Credit Card Fees and Other Fees

The Treasury Department and the IRS have treated certain credit card fees associated with pools of credit card receivables as creating or increasing original issue discount (OID) on those pools. See Revenue Procedure 2004–33 (2004–1 CB 989) (the IRS will not challenge the treatment of late fees as creating or increasing OID); Revenue Procedure 2005–47 (2005–2 CB 269) (the IRS will not challenge the treatment of cash advance fees as creating or increasing OID); Revenue Procedure 2013–26 (2013–22 IRB 1160) (safe harbor method of accounting for OID on a pool of credit card receivables for purposes of section 1272(a)(6)); and Chief Counsel Notice CC–2010–018 (Sept. 27, 2010) (as a result of the Tax Court's decision in *Capital One Financial Corp. and Subsidiaries* v. *Commissioner,* 133 T.C. 136 (2009), the IRS will no longer challenge or litigate the issue of whether interchange fee income creates or increases OID).

With the enactment of section 451(b), however, Congress expressed its intention to overturn the tax treatment of those credit card fees as OID, including the use of the OID timing rules, and subject them to the all events test. The Conference Report to the Act states, ''[section 451(b)] directs accrual method taxpayers with an applicable financial statement to apply the income recognition rules under section 451 before applying the special rules under part V of subchapter P . . .'' (which includes the OID rules). H.R. Rep. No. 115–466, at 428 (2017) (Conf. Rep.). In particular, the legislative history describes the treatment of credit card late fees, credit card cash advance fees, and interchange fees as creating or increasing OID for Federal tax purposes and lists these fees as examples of amounts to which section 451(b), as amended, would apply. Id. at 427, 429. These three credit card fees are not generally treated as discount for AFS purposes.

Congress clearly expressed its intention to overturn the tax treatment of credit card late fees, cash advance fees, and interchange fees (specified credit card fees) and to subject these fees to the all events test as modified by section 451(b). Id. at 429. The legislative history quoted in the preceding paragraph further suggests that Congress intended that other fees associated with a lending transaction that might otherwise be accounted for in

calculating OID are to be subjected to the AFS income inclusion rule before the application of the OID rules. Based on the legislative history, however, taxpayers have stated that section 451(b) was not intended to affect the application of the general OID timing rules to OID other than with respect to items not treated as discount for financial reporting purposes, such as the specified credit card fees. Id. at 427–429. Moreover, taxpayers have stated that the application of section 451(b) to OID other than items not treated as discount for financial reporting purposes would result in significant administrative burden and very little additional tax revenue. The Treasury Department and the IRS agree with commenters on this issue. Therefore, in the absence of a clear indication in the legislative history that Congress intended for section 451(b) to override the general timing rules for OID, and in order to reduce administrative burden, the proposed section 451(b) regulations would not apply to determine the time at which OID generally is includible in income. See § 1.451–3(c)(5)(ix) of the proposed regulations.

The proposed regulations contain two provisions that implement Congressional intent regarding the treatment of fees, including the specified credit card fees. First, under proposed § 1.451–3(i), if a fee is not treated by a taxpayer as discount or as an adjustment to the yield of a debt instrument over the life of the instrument (such as points) in its AFS and the fee otherwise would be treated as creating or increasing OID for Federal income tax purposes (specified fee), then the rules in the proposed regulations under section 451(b) apply before the rules in sections 1271 through 1275 and the regulations thereunder. For example, proposed § 1.451–3(i) applies to the specified credit card fees. Second, proposed § 1.1275–2(l) includes a proposed amendment to the final regulations under section 1275 to clarify that an item of income that is subject to the timing rules in the proposed regulations under section 451(b) (such as the specified credit card fees) is not taken into account in determining the amount of OID (if any) on the debt instrument. Removing specified fees and specified credit card fees from the calculation of OID will permit taxpayers to apply only the rules of section 451(b) to these fees, without also having to apply the rules relevant to OID. In addition, the Treasury Department and the IRS propose to obsolete Revenue Procedure 2004–33, Revenue Procedure 2005–47, Revenue Procedure 2013–26, and Chief Counsel Notice CC–2010–018. The Treasury Department and the IRS request comments on the proposed obsolescence of these documents.

B. Market Discount

Taxpayers requested guidance as to whether market discount is includible in income under section 451(b). The Treasury Department and the IRS previously announced that proposed regulations would provide that accrued market discount is not includible in income under section 451(b). Notice 2018–80 (2018 IRB 609), issued September 27, 2018.

A bond is generally treated as having market discount when the principal amount of the bond exceeds the holder's basis immediately after it was acquired by the holder. Under section 1276(a), market discount is includible in income only upon disposition of a market discount bond at a gain or the receipt of a partial principal payment, unless the holder of the bond elects otherwise. In each case, the market discount inclusion is limited to accrued market discount as defined in section 1276(b). In general, the timing rules for income inclusion in section 1276 are a codification of the pre-1984 timing rules for market discount and confirm that the all events test generally does not determine when accrued market discount is includible in income. The proposed regulations therefore include the market discount rules on the list of special methods of accounting to which section 451(b) does not apply.

Statement of Availability of IRS Documents

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

Proposed Applicability Date

These regulations are proposed generally to apply to taxable years beginning on or after the date the final regulations are published in the **Federal Register**. However, in the case of a specified fee, proposed § 1.451–3(i)(2) is proposed to apply for a taxpayer's first taxable year beginning one year after the date the Treasury decision adopting these regulations as final is published in the **Federal Register**. In general, this delayed effective date for specified fees is provided because the treatment of these fees is unclear for tax purposes (and in some cases for financial reporting purposes). This additional time will allow the Treasury Department and the IRS to determine the types of fees that should be subject to section 451(b), which will provide taxpayers with more certainty in complying with section 451(b) and will help to minimize controversies with the IRS with respect to fees.

Until the date the Treasury decision adopting these regulations as final regulations is published in the **Federal Register**, a taxpayer may rely on these proposed regulations (other than the proposed regulations relating to specified fees) for taxable years beginning after December 31, 2017, provided that the taxpayer: (1) Applies all the applicable rules contained in these proposed regulations (other than those applicable to specified fees), and (2) consistently applies these proposed regulations to all items of income during the taxable year (other than specified fees). Until the date the Treasury decision adopting these regulations as final regulations is published in the **Federal Register**, in the case of specified credit card fees, a taxpayer may rely on these proposed regulations for taxable years beginning after December 31, 2018, provided that the taxpayer: (1) Applies all the applicable rules contained in these proposed regulations for specified credit card fees, and (2) consistently applies these proposed regulations to all items of income during the taxable year (other than specified fees).

Special Analyses

I. Regulatory Planning and Review

Executive Orders 13771, 13563, and 12866 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits, including potential economic, environmental, public health and safety effects, distributive impacts, and equity. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Executive Order 13771 designation for any final rule resulting from the proposed regulation will be informed by comments received. The preliminary Executive Order 13771 designation for this proposed rule is regulatory.

The proposed regulation has been designated by the Office of Information and Regulatory Affairs (OIRA) as subject to review under Executive Order 12866 pursuant to the Memorandum of

Agreement (MOA, April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations. The Office of Information and Regulatory Affairs has designated these proposed regulations as significant under section 1(b) of the MOA. Accordingly, these proposed regulations have been reviewed by OIRA.

1. Background

In plain language, section 451 of the Internal Revenue Code (the ''Code'') and the proposed regulations deal with differences between when income is recognized for Federal tax purposes and when it is recognized on businesses' financial accounting statements. The recently enacted section 451(b) more closely aligns the timing rules of the tax system with general financial accounting standards.

Under section 451(a) of the Code, any item of gross income is required to be included as income by the taxpayer (''recognized'') when it is received by the taxpayer unless, under the taxpayer's method of accounting, the income is properly accounted for in a different period. For this purpose, businesses and individuals are generally required to use the accounting method that is used regularly to keep their financial records. This may be a cash receipts and disbursements accounting method, under which income is recognized when payment is actually or constructively received, or it may be an accounting system based on income and expense accrual principles. Certain corporations and some partnerships are required to use an accrual method, and generally taxpayers employing inventories in their trade or business must use an accrual method with regard to purchases and sales of inventory.

Current regulations require taxpayers using an accrual accounting method to report income in the taxable year in which all events that fix the right to receive such income have occurred, provided the amount can be determined with reasonable accuracy. Under IRS guidance, this ''all events test'' is met upon the earliest of when (i) payment is earned through performance by the taxpayer (*e.g.,* provision of the contracted goods or services), (ii) payment is due to the taxpayer, or (iii) payment is received by the taxpayer.

In contrast, U.S. generally accepted accounting principles (''GAAP'') and international financial reporting standards (''IFRS''), having different purposes from tax law, may often dictate alternative rules as regards the timing of revenue recognition. Differences between these financial accounting standards and the Code in the timing of revenue recognition may arise for a number of reasons. For example, under certain circumstances, financial accounting rules may require revenue to be recognized when the costs of providing goods or services pursuant to a contract are incurred, while the all events test may not be satisfied until the contract obligation is fulfilled. If meeting the taxpayer's performance obligation occurs over more than a single accounting period, then this timing pattern can result in a disparity between the year in which the associated revenue is booked for financial accounting purposes and the year in which the associated taxable gross income is recognized.

Congress enacted new section 451(b) in part because conformity in the timing of income recognition between the accrual system of accounting and the tax system (''book-tax conformity'') will generally ''promote simplification and reduced compliance costs.'' See Senate Budget Explanation of the Bill (2017–11–20) at p. 161.

Section 451(b) applies only to taxpayers that use the accrual method and have an Applicable Financial Statement (''AFS''). In plain language, an AFS is a financial statement certified as having been prepared under GAAP or IFRS. All publicly traded U.S. corporations possess an AFS, as do many privately held corporations and partnerships, which may have such certified accounting statements for credit purposes or for shareholder or partner reporting purposes. The income recognition rules for accrual-method taxpayers without an AFS and cash-method taxpayers are not altered by the enactment of section 451(b) or by the proposed regulations. The Treasury Department and the IRS project that there were approximately 3.1 million tax-reporting entities in taxable year 2016 that used an accrual method of accounting. They further project that fewer than 10 percent of these, or approximately 296,000 entities had an AFS, and thus could have been affected by section 451(b) and the proposed regulations had these been in effect in taxable year 2016.

For these taxpayers, Section 451(b) modifies the all-events test by stating that the test is not met for any item of income any later than when it is taken into account as revenue in an AFS or other designated financial statement (the ''AFS income inclusion rule''). Thus, this new rule requires taxpayers to recognize income upon the earlier of when the all-events test is met or when the taxpayer includes the amount in revenue (broadly defined) in its AFS (''AFS income inclusion rule''). The AFS income inclusion rule operates only in one direction—to accelerate in time the recognition of gross income for tax purposes. This acceleration occurs in situations where income has been recognized for financial accounting purposes before the all events test has been satisfied.

2. Need for the Proposed Regulations

The proposed regulations deliver certainty and clarity to taxpayers affected by the Act's introduction of the new section 451(b) and allow them to comply with the new statutory provision with a higher level of confidence.

The Treasury Department and IRS published a Notice in April 2018, requesting public comments regarding the application of the AFS income inclusion rule, the meaning of various concepts and terms used in section 451(b), and other implementation issues not explicitly addressed in the statute. As explained earlier in this Preamble, the proposed regulations address the comments and questions subsequently raised by the public.

3. Overview of the Proposed Regulations

The proposed regulations include applicability and definitional guidance regarding section 451(b). Specifically, the proposed regulations: (1) Clarify how the AFS inclusion rule applies to multi-year contracts; (2) describe and clarify the definition of an AFS for a group of entities; (3) define the meaning of the term revenue in an AFS; (4) define a transaction price and clarify how that price is to be allocated to separate performance obligations in a contract with multiple obligations; and (5) describe and clarify rules for transactions involving certain debt instruments.

4. Economic Analysis

A. Baseline

The Treasury Department and the IRS have assessed the benefits and costs of the proposed regulations relative to a no-action baseline reflecting anticipated Federal income tax-related behavior in the absence of these proposed regulations.

B. Summary of Economic Effects

The proposed regulations provide increased certainty, clarity, and consistency in the application of section 451(b) by providing definitions and clarifications regarding the statute's terms and rules. In the absence of such guidance, the chances that different taxpayers would interpret the statute differently would be exacerbated.

Similarly situated taxpayers might interpret the statutory provisions pertaining to the recognition of income differently, with one taxpayer pursuing a project that another comparable taxpayer might decline to make because of different interpretations of how the income would be treated under section 451(b). If this second taxpayer's activity were more profitable, an economic loss arises. Even in situations where taxpayers would generally adopt similar interpretations of the Code under the baseline, the lack of guidance increases opportunities for that interpretation to differ from what Congress intended. In this case, guidance provides value by bringing economic decisions closer in line with Congressional intent. In the context of economic activity by businesses that are subject to section 451(b) or that interact with such businesses, the proposed regulations thus help to ensure that similar economic activities, representing similar timing of income, are taxed similarly, thereby improving U.S. economic performance.

The Treasury Department and the IRS have not undertaken quantitative estimates of these possible efficiency gains because any such quantitative estimates would be highly uncertain. For example, the proposed regulations include provisions to clarify how income should be included from multi-year contracts. The Treasury Department and the IRS do not have readily available data or models to determine how businesses might apply the AFS inclusion rule to multi-year contracts in the absence of the proposed regulations or under alternative regulatory approaches. Furthermore, even in the event that most businesses could be presumed to adopt a particular treatment under the baseline, the Treasury Department and the IRS further do not have readily available data or models of the volume or pattern of their multi-year contract payments and they thus cannot project with any degree of precision the differences in tax treatment taxpayers would experience between the proposed regulations and the baseline or alternative regulatory approaches. Such differences are a key component of the marginal effective tax rate that these contracts would experience, which in turn would determine how economic activity would be affected by the proposed regulations relative to the baseline or alternative regulatory approaches.

The Treasury Department and the IRS further project that issuance of the proposed regulations will reduce compliance and enforcement costs relative to the baseline because the enhanced certainty and clarity they provide should make it easier for businesses to calculate their tax liability relative to the baseline. Greater efficiencies should also result from the promulgation of the proposed regulations, relative to the baseline, by reducing taxpayer disputes with the IRS that otherwise would have to be dealt with through sub-regulatory guidance or resolved through increased litigation. By providing greater certainty of how the law will be applied, the Treasury Department and the IRS project that the proposed regulations will reduce these implementation costs. The Treasury Department and the IRS have not made a quantitative estimate of the reduction in compliance and enforcement costs resulting from the proposed regulations. They have not made such an estimate in part because models of compliance cost are not currently available to provide a reasonably precise estimate of compliance costs in the absence of the proposed regulations.

With these limitations in mind, part II.4.C of this Special Analyses section explains the rationale behind the approaches taken by the proposed regulations and qualitatively evaluates the alternatives considered.

The Treasury Department and the IRS solicit comments on the economic effects of the proposed regulations.

C. Economic Effects of Specific Provisions

The proposed regulations embody certain regulatory decisions that reflect the regulatory discretion of the Treasury Department and the IRS. These decisions specify more fully how the AFS income inclusion rule is to be implemented.

The Treasury Department and IRS solicit comments on the economics of each of the items discussed below and of any other items of the proposed regulations not discussed in this section. The Treasury Department and the IRS particularly solicit comments that provide data, other evidence, or models that could enhance the rigor of the process by which the final regulations might be developed.

i. Application of the AFS Income Inclusion Rule to Multi-Year Contracts

The proposed regulations clarify how section 451(b) applies to multi-year contracts. The Treasury Department and the IRS considered two alternative approaches for such contracts: (i) An annualized approach and (ii) a cumulative approach. Under an annualized approach, for each year under the contract a taxpayer would compare the income included as revenue in its AFS for that year and the gross income recognized under the all events test for that same year to determine its gross income inclusion, with the proviso that the total amount of gross income recognized under the contract is not to exceed the total contract price. In contrast, under a cumulative approach, in each year a taxpayer would compare the cumulative amount of revenue included in its AFS up to and including that year with the cumulative amount of gross income recognized under the all events test up to and including that year.

Example 4 of the proposed regulations, the summary table of which is reproduced in the first three rows of the following table, shows the treatment of gross income under a cumulative approach. The fourth row in this table shows the treatment of gross income under the annualized approach.

	2018	2019	2020	2021	Total
Payments	$25x	$25x	$25x	$25x	$100x
AFS Revenue	50x	0x	20x	30x	100x
Gross Income (cumulative)	50x	0x	25x	25x	100x
Gross Income (annualized)	50x	25x	25x	0x	100x

An annualized approach could accelerate the recognition of taxable income to a greater degree than what is reflected in revenue for AFS purposes. In this example, such an approach would ignore in 2019 the fact that cumulative AFS revenue of $50x had been recognized as taxable gross income in 2018. Accordingly, the annualized approach would require that an additional $25x of income be recognized in 2019, since a payment of that amount was received in that year. In effect, an annualized approach would accelerate the recognition of $25x from 2021 to

2019 relative to gross income recognition under the cumulative AFS income inclusion rule.

The Treasury Department and IRS concluded that the extent of acceleration of income that may occur when using an annualized approach would be excessive relative to the cumulative approach when considered against the intents and purposes of the statute. The proposed regulations therefore adopt the cumulative approach.

ii. Applicable Financial Statement Covering a Group of Entities

The proposed regulations provide rules for taxpayers whose financial results are included on an AFS covering a group of entities. These rules specify that, if a taxpayer's financial results are reported on the AFS for a group of entities, the taxpayer's AFS is the group's AFS. However, if the taxpayer also reports financial results on a separate AFS that is of equal or higher priority, then the separate AFS is the taxpayer's AFS. The rules also specify how a taxpayer using a group AFS is to determine the amount of revenue allocated to the taxpayer. The Treasury Department and the IRS considered as an alternative not providing substantive rules on how taxpayers should apply the AFS income inclusion rule when their financial results are included in an AFS for a group of entities. This alternative was rejected because it would have increased compliance burdens and potentially led to similarly situated taxpayers applying the AFS income inclusion rule differently.

The Code does not specify how the AFS income inclusion rule is to function whenever the AFS accounting period and the taxable year do not coincide. The proposed regulations do not adopt a single, one-size-fits-all approach, but rather provide taxpayers three separate options for addressing this situation. A change from one option to another, however, would be considered a change in method of accounting requiring the permission of the IRS. By providing taxpayers with several options, the proposed regulations will minimize taxpayer compliance costs when dealing with non-congruent tax and financial accounting periods relative to an alternative approach of specifying a single option, with no significant revenue implications or effects on economic decisions.

iii. Revenue in an AFS

The proposed regulations describe and clarify the definition of revenue to broadly include all items of income under section 61. Because this definition of revenue is based on tax principles, there may be items of revenue included in this definition that adjust retained earnings on financial statements but are not reflected in the revenue line on such financial statements. The Treasury Department and the IRS considered and rejected a narrower definition of revenue or a definition that was tied to the AFS definition of revenue. The definition of revenue advanced in the proposed regulations is consistent with the current application of the all events test under § 1.451–1(a) and ensures that all financial statement items are taken into account for tax purposes. In contrast, a narrow definition of revenue would allow, or even encourage, taxpayers to avoid the AFS income inclusion rule by not classifying an item as revenue on their financial statement.

iv. Allocation of Transaction Price

Section 451(b)(4) specifies that, in the case of a contract which contains multiple performance obligations, the allocation of the transaction price to each obligation is determined using the allocation used in the AFS. The Code, however, does not define either transaction price or performance obligation, thus the proposed regulation defines these terms. The proposed regulations clarify that a transaction price does not include amounts collected on behalf of third parties. Transaction price also does not include amounts that are contingent on the occurrence or non-occurrence of a future event. Without these exclusions, section 451(b) could be used to override other provisions of the Code concerning the definition of what constitutes gross income. This result would be at odds with the purpose of section 451, which is not to determine the existence or the amount of gross income, but rather to determine the timing of its recognition. Consequently, alternatives to these rules were not considered here.

Amounts included in the transaction price for an AFS are presumed to be not contingent, unless the taxpayer demonstrates otherwise. The Treasury Department and the IRS project that this rule will lead to reduced compliance burden for taxpayers, and reduced administrative costs for taxpayers and IRS and should lead to fewer taxpayer disputes on this issue relative to an alternative presumption regarding possible contingent amounts.

v. Rules for Certain Debt Instruments

Section 451(b)(2) states that the AFS inclusion rule does not apply to items of gross income for which a taxpayer uses a special method of accounting provided under the Code. However, the Code does not apply this exception to special accounting rules that apply to original issue discount (''OID''), market discount, and certain other items with respect to debt instruments under part V of Subchapter P of the Code.

The proposed regulations implement this provision regarding special methods of accounting, and clarify the effect of section 451(b) on the excepted Subchapter P rules.

The proposed regulations implement this provision by providing a non-exhaustive list of special methods of accounting, and by clarifying how section 451(b) applies to certain credit card receivables. The proposed regulations specifically except from section 451(b) the timing rules for accrued market discount on bonds and the general OID timing rules, as well as the timing rules for OID determined with respect to special debt instruments (contingent payment and variable rate debt instruments, certain hedged debt instruments, and inflation-indexed debt instruments). Nevertheless, following the legislative history of the Act (see Conference Report, p. 276), the proposed regulations provide that credit card late fees, credit card cash advance fees, and interchange fees are subject to the AFS income inclusion rule. The proposed regulations further specify that if these credit card fees are subject to a taxpayer's AFS, they are not to be taken into account in determining whether a debt instrument associated with them has OID. Existing rules continue to apply to these items for taxpayers not possessing an AFS. The Treasury Department and the IRS expect that this treatment will provide a straightforward application of section 451(b) consistent with Congressional intent without unnecessarily complicating OID calculations and adding to taxpayer compliance burdens.

The Treasury Department and the IRS considered and rejected a broader application of the AFS income inclusion rule to include all amounts determined under the OID and market discount accounting methods, even in cases where the items are treated as discount or as an adjustment to the yield of a debt instrument over the life of the instrument in its AFS for financial reporting purposes. The proposed regulations do not subject these amounts to the AFS income inclusion rule because these special accounting methods do not generally rely on the all events test to determine the timing of income inclusion and these current special accounting methods provide workable income-recognition timing

rules that appropriately measure income. The Treasury Department and the IRS expect that subjecting these items to the AFS income inclusion rule of section 451(b) would disrupt and complicate current tax accounting practices with no general economic benefit.

II. Paperwork Reduction Act

These proposed regulations do not impose any additional information collection requirements in the form of reporting, recordkeeping requirements or third-party disclosure requirements. However, because section 451(b) and the proposed regulations provide methods of accounting affecting the timing of income inclusion, the consent of the Commissioner under section 446(e) is required before using such method. The IRS expects that these taxpayers will request this consent by filing Form 3115, *Application for Change in Accounting Method*. Filing of Form 3115 (for taxpayers who are required to do so or who elect certain methods of accounting described in the proposed regulations) is the sole collection of information requirement imposed by the statute and the proposed regulations. See subsequent paragraphs for a description of taxpayers who would be required to change the method of accounting under the statute and the proposed regulations.

For purposes of the Paperwork Reduction Act, the reporting burden associated with these collections of information will be reflected in the IRS Form 3115 Paperwork Reduction Act Submissions (OMB control number 1545–0074 for individual income tax returns; OMB control number 1545–0123 for business taxpayers). On December 17, 2018, the Treasury Department and the IRS published Revenue Procedure 2018–60, 2018–51 IRB 1045, which provides procedures for taxpayers to make a change in method of accounting to comply with section 451(b)(1)(A) and/or (b)(4). Taxpayers are able to request these section 451 changes using reduced filing requirements, such as by filing a short Form 3115, or for certain taxpayers, by using a streamlined method change procedure that involves not filing a Form 3115. See also the revenue procedure accompanying these regulations for similar simplified method change procedures to make a change in method of accounting to comply with these proposed regulations.

In 2018, the IRS released and invited comment on a draft of Form 3115 in order to give members of the public the opportunity to benefit from certain specific provisions made to the Code. The IRS received no comments on the forms during the comment period. Consequently, the IRS made the forms available in January 2019 for use by the public. The IRS notes that Form 3115 applies to changes of accounting methods generally and is therefore broader than section 451(b).

Additionally, proposed § 1.451–3(h) provides additional methods of accounting that require a taxpayer to request consent of the Commissioner under section 446(e) before using such method. Under proposed § 1.451–3(h)(4)(iii), for a taxpayer with a financial accounting year that is different from its tax accounting year, a change in the method by which the taxpayer computes its revenue is a change in method of accounting. Under proposed § 1.451–3(h)(5), a restatement of an AFS that changes the timing of which an item of income, or portion thereof, is taken into account in revenue on the AFS is also a change in method of accounting. The Treasury Department and the IRS expect that taxpayers will request this consent by filing Form 3115.

For a taxpayer with an AFS required to comply with section 451(b) and/or proposed § 1.451–3, a change in the taxpayer's revenue recognition policies for financial accounting purposes requires the taxpayer to seek the consent of the Commissioner under section 446(e) to use the method for Federal income tax purposes. See proposed § 1.451–3(l). The reporting burden associated with the collection of information for a statement in lieu of the Form 3115 will be reflected in the Paperwork Reduction Act Submission associated with Revenue Procedure 2018–31, 2018–22 IRB 637 (or successor) (OMB control number 1545–1551). See the revenue procedure accompanying these proposed regulations.

The current status of the Paperwork Reduction Act submissions that will be revised as a result of the information collections in the proposed regulations is provided in the accompanying table. As described above, the reporting burdens associated with the information collections in the proposed regulations are included in the aggregated burden estimates for OMB control numbers 1545–0074 (in the case of individual filers of Form 3115), 1545–0123 (in the case of business filers of Form 3115), and 1545–1551 (in the case of filers subject to Revenue Procedure 2018–31). The overall burden estimates associated with the OMB control numbers below are aggregate amounts that relate to the entire package of forms associated with the applicable OMB control number and will in the future include, but not isolate, the estimated burden of the tax forms that will be created or revised as a result of the information collections in the proposed regulations. These numbers are therefore unrelated to the future calculations needed to assess the burden imposed by the proposed regulations. These burdens have been reported for other income tax regulations that rely on the same information collections and the Treasury Department and the IRS urge readers to recognize that these numbers are duplicates and to guard against overcounting the burdens imposed by tax provisions prior to the Act. No burden estimates specific to the forms affected by the proposed regulations are currently available. The Treasury Department and the IRS have not estimated the burden, including that of any new information collections, related to the requirements under the proposed regulations. For the OMB control numbers discussed in the preceding paragraphs, the Treasury Department and the IRS estimate PRA burdens on a taxpayer-type basis rather than a provision-specific basis. Those estimates capture both changes made by the Act and those that arise out of discretionary authority exercised in the proposed regulations (when final) and other regulations that affect the compliance burden for that form.

The Treasury Department and IRS request comment on all aspects of information collection burdens related to the proposed regulations, including estimates for how much time it would take to comply with the paperwork burdens described above for each relevant form and ways for the IRS to minimize the paperwork burden. In addition, when available, drafts of IRS forms are posted for comment at *https://apps.irs.gov/app/picklist/list/draftTaxForms.htm*. IRS forms are available at *https://www.irs.gov/forms-instructions*. Forms will not be finalized until after they have been approved by OMB under the PRA.

Form/ Revenue Procedure	Type of Filer	OMB Number(s)	Status
Form 3115	All other Filers (mainly trusts and estates) (Legacy system)	1545-2070	Published in the Federal Register on 2/15/17. Public comment period closed on 4/17/17.
	Link: https://www.federalregister.gov/documents/2017/02/15/2017-02985/proposed-information-collection-comment-request		
	Business (NEW Model)	1545-0123	Published in the Federal Register on 10/8/18. Public comment period closed on 12/10/18.
	Link: https://www.federalregister.gov/documents/2018/10/09/2018-21846/proposed-collection-comment-request-for-forms-1065-1065-b-1066-1120-1120-c-1120-f-1120-h-1120-nd		
	Individual (NEW Model)	1545-0074	Limited scope submission (1040 only) on 10/11/18 at OIRA for review. Full ICR submission for all forms in 2019.
	Link: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201808-1545-031		
Revenue Procedure 2018-31	IRS Research estimates	1545-1551	Published in the Federal Register on 8/31/16. Public Comment period closed on 9/30/16.
	Link: https://www.federalregister.gov/documents/2016/08/31/2016-20993/submission-for-omb-review-comment-request		

D. Regulatory Flexibility Act

It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities within the meaning of section 601(6) of the Regulatory Flexibility Act (5 U.S.C. chapter 6).

New section 451(b) of the Act requires that an item of income be included in gross income for tax purposes no later than when the item is counted as revenue in an applicable financial statement. This typically moves the recognition of income forward by a year or two compared to previous law. These proposed regulations provide general guidance on the rule, including the scope of the rule, exceptions to the rule, definitions of key terms, and examples demonstrating applicability of the rule.

The Treasury Department and the IRS have estimated the number of small business entities that may be affected by the statute and these proposed regulations. The statute and proposed regulations affect only those business entities that (i) use an accrual method of accounting, and (ii) have an applicable financial statement.

Regarding an accrual method of accounting, many small business entities use the cash receipts and disbursements method of accounting (cash method), as opposed to an accrual method, and thus are not subject to this provision. The percent of returns that use an accrual method of accounting, by entity types and for entities with gross receipts not greater than $25 million, are shown in the accompanying table.

TOTAL RETURNS AND RETURNS USING ACCRUAL METHOD OF ACCOUNTING

[Taxable Year 2016]

Entities with gross receipts not greater than $25 million			
Entity	Total returns (thousands)	Returns using an accrual method of accounting (thousands)	Percent of returns using accrual method of accounting
C corporations	1,567	700	45
S corporations	4,551	1,140	25
Partnerships	3,743	860	23
Sole proprietors and LLCs	25,524	358	1
All entities	35,385	3,058	9

Source: Internal Revenue Service, Statistics of Income.

The Treasury Department and the IRS next examined the second condition, that only entities with an Applicable Financial Statement (''AFS'') are affected by the statute and the proposed regulations. The Treasury Department and the IRS do not have readily available data to measure the prevalence of entities with an AFS. However, Schedule M–3, which is used to reconcile an entity's net income or loss for tax purposes with its book income or loss, reports whether an entity has a certified audited income statement. Unfortunately for the current exercise, the Schedule M–3 is required to be filed only by entities possessing at least $10 million of assets. Nevertheless, it is this population that is far more likely to possess an AFS. Furthermore, data are currently available only for electronic filers.

For taxable year 2016, approximately 87 percent of accrual-method entities filing Forms 1120, 1120–S, and 1065 with gross receipts of $25 million or less were filers of electronic tax forms. About 11 percent, or 265,000 of these returns, included a Schedule M–3. About 40 percent of the returns with Schedule M–3, or 106,000, indicated they had a certified audited income statement.[1] Based on the assumption that filers of paper tax forms have the same incidence as electronic filers and that entities that do not file a Schedule M–3 generally do not have an AFS, then the Treasury Department and the IRS estimate that roughly 122,000 (=106,000/0.87) entities with gross receipts of $25 million or less are accrual-method entities that have an AFS. If 5 percent of entities that do not file a Schedule M–3 also have an AFS then approximately 247,000 entities with gross receipts of $25 million or less are potentially affected by the proposed regulations. These estimates of affected filing entities are reproduced in the following table.

CORPORATION AND PARTNERSHIP RETURNS USING AN ACCRUAL METHOD OF ACCOUNTING TAXABLE YEAR 2016

[Thousands of returns]

Entities with gross receipts not greater than $25 million			
	E-Filed returns	Paper-Filed returns	Total returns
Returns	2,441	361	2,802
Returns with a Schedule M–3	265	* *39*	* *374*
Returns with a Schedule M–3 and an audited income statement	106	* *16*	* *122*
Returns without a Schedule M–3	2,176	* *322*	* *2,498*
Returns without a Schedule M–3, but with an audited income statement	** *109*	** *16*	** *125*
Returns with an audited income statement	** *215*	** *32*	** *247*

* Estimates are obtained by assuming paper-filed returns are similar to e-filed returns as regards the incidence of a filing entity having a Schedule M–3 and an audited income statement.

** Estimates are obtained by assuming that 5% of returns without a Schedule M–3 have an audited income statement. This compares with approximately 40% of returns with a Schedule M–3 having such a statement.

Source: Non-italic entries are estimates taken from the IRS's Research, Applied Analytics and Statistics Division using data from the Compliance Data Warehouse. The total number of accrual method returns of corporations and partnerships (2,802,000) differs slightly from that reported in the earlier table (2,700,000) due to the use of different data sources for the two estimates. Italicized entries are additional estimates obtained in the manner indicated in the table notes.

This rule would not have a significant economic impact on small entities affected. The costs to comply with these proposed regulations are not significant. Taxpayers needing to make method changes pursuant to section 451(b) or the proposed regulations will be required to file a Form 3115. The Treasury Department and the IRS have provided streamlined procedures for certain taxpayers to change their method of accounting to comply with section 451(b), and plan to provide streamlined procedures for taxpayers to change to the methods of accounting described in these proposed regulations. See Revenue Procedure 2018–60, and the revenue procedure accompanying these regulations. Under the streamlined procedures, certain taxpayers would either complete only a portion of the

[1] Data are based on estimates from the IRS's Research, Applied Analytics and Statistics Division using data from the Compliance Data Warehouse.

Form 3115 or would not complete the Form 3115 at all to comply with section 451(b). The streamlined method change procedures are available to taxpayers (other than a tax shelter) who satisfy the gross receipts test under section 448(c) and for taxpayers making such a method change which results in a zero section 481(a) adjustment. (For tax years beginning in 2018, an entity satisfied the gross receipts test if its average annual gross receipts was $25 million or less. For tax years beginning in 2019, this threshold increased to $26 million or less.) In addition, the Treasury Department and the IRS plan to issue a streamlined procedure, using a short Form 3115, for taxpayers using a section 451(b) method who have a change in their AFS for revenue recognition that requires a method change for tax purposes. See the revenue procedure accompanying these regulations.

As noted in the revenue procedure accompanying these regulations, the estimated cumulative annual reporting and/or recordkeeping burden for the statutory method changes described under OMB control number 1545–1551, before publication of the revenue procedure, is 27,336 respondents, and a total annual reporting and/or recordkeeping burden of 30,580 hours. The estimated annual burden per respondent/recordkeeper under OMB control number 1545–1551 before publication of this revenue procedure varies from ⅙ hour to 8½ hours, depending on individual circumstances, with an estimated average of 1¼ hours. The estimated cumulative annual reporting and/or recordkeeping burden for the method changes described under OMB control number 1545–1551 after that revenue procedure is accounted for is 27,346 respondents, and a total annual reporting and/or recordkeeping burden is 31,479 hours, leaving the average reporting and recordkeeping burden essentially unchanged. These burdens are essentially unaffected by these proposed regulations.

Notwithstanding this certification, the Treasury Department and the IRS invite comments from the public about the impact of this proposed rule on small entities.

Pursuant to section 7805(f), these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

IV. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a state, local, or tribal government, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. In 2018, that threshold is approximately $150 million. This rule does not include any Federal mandate that may result in expenditures by state, local, or tribal governments, or by the private sector in excess of that threshold.

V. Executive Order 13132: Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on state and local governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at *http://www.regulations.gov* or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Charles Gorham, IRS Office of the Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding entries in numerical order to read, in part, as follows:

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

* * * * *

Section 1.451–3 also issued under 26 U.S.C. 451(b)(1)(A)(ii) and (b)(3)(C).

* * * * *

§ 1.446–1 [Amended]

■ **Par. 2.** Section 1.446–1 is amended by adding ''(See § 1.451–1 for rules relating to the taxable year of inclusion.)'' between the first and second sentences of paragraph (c)(1)(ii)(A).

■ **Par. 3.** Section 1.446–2 is amended by removing ''or'' at the end of paragraph (a)(2)(i)(E), removing the period at the end of paragraph (a)(2)(i)(F) and adding in its place ''; or'' and adding paragraph (a)(2)(i)(G).

The addition reads as follows:

§ 1.446–2 Method of accounting for interest.

(a) * * *

(2) * * *

(i) * * *

(G) Section 1.451–3(i) (special ordering rule for specified fees).

* * * * *

§ 1.451–1 [Amended]

■ **Par. 4.** Section 1.451–1 is amended by:

■ a. Adding ''(the all events test)'' to the end of the second sentence of paragraph (a);

■ b. Redesignating paragraphs (b) through (g) as (d) through (i); and

■ c. Adding new paragraphs (b) and reserved (c).

The additions read as follows:

§ 1.451–1 General rule for taxable year of inclusion.

* * * * *

(b) *Special rule for timing of income inclusion for taxpayers with an applicable financial statement using an accrual method of accounting.* For the timing of income inclusion with respect to taxpayers with an applicable financial statement using an accrual method of accounting, see also § 1.451–3.

(c) [Reserved]

* * * * *

■ **Par. 5.** Section 1.451–3 is added to read as follows:

§ 1.451–3 Timing of income inclusion for taxpayers with an applicable financial statement using an accrual method of accounting.

(a) *Table of contents.* This paragraph (a) lists captioned paragraphs contained in § 1.451–3.

§ 1.451–3 Timing of income inclusion for taxpayers with an applicable financial statement using an accrual method of accounting.
(a) Table of contents.
(b) General rule.
(c) Definitions.
(1) Applicable financial statement.
(i) GAAP Statements.
(ii) IFRS Statements.
(iii) Other Statements.
(iv) Additional rules for determining priority.
(2) Equity method.
(3) Performance obligation.
(4) Revenue.
(5) Special method of accounting.
(6) Transaction price.
(d) Exceptions to the AFS income inclusion rule.
(e) No change in the treatment of a transaction.
(f) No change to exclusion provisions and non-recognition treatments.
(g) Contracts with multiple performance obligations.
(1) In general.
(2) Example.
(h) Additional AFS issues.
(1) AFS covering groups of entities.
(i) In general.
(ii) Example.
(2) Separately stated items.
(3) Non-separately stated items.
(4) Computation of revenue when the AFS covers mismatched reportable periods
(i) In general.
(ii) Permissible methods to determine revenue.
(iii) Method of accounting.
(5) Restatement of AFS.
(i) Special ordering rule for certain items of income with respect to debt instruments.
(1) In general.
(2) Specified fees.
(3) Example.
(j) Treatment of adjustments to deferred revenue in an AFS.
(1) In general.
(2) Example.
(k) Cumulative rule for multi-year contracts.
(l) Methods of accounting
(1) In general.
(2) Transition rule for changes in method of accounting.
(i) In general.
(ii) Special rules for OID.
(iii) Qualified change in method of accounting.
(m) Examples.
(1) Example 1. Mismatched reportable periods.
(2) Example 2. Provision of installation services.
(3) Example 3. Provision of goods.
(4) Example 4. Provision of services included in AFS without deferral of advance payments under section 451(c)(1)(B).
(5) Example 5. Provision of services included in AFS with deferral of advance payments under section 451(c)(1)(B).
(6) Example 6. Sale of goods with AFS revenue adjustments.
(7) Example 7. Chargebacks.
(8) Example 8. Sale of property using a special method of accounting.
(9) Example 9. Non-recognition provisions not changed for Federal income tax purposes.
(n) Applicability date.
(1) In general.
(2) Delayed application with respect to certain fees.
(3) Early application of this section.
(i) In general.
(ii) Certain fees.
(A) Specified credit card fees.
(B) Specified fees.

(b) *General rule.* If a taxpayer has an applicable financial statement (AFS), the all events test under § 1.451–1(a) with respect to any item of gross income, or portion thereof, is met no later than when that item, or portion thereof, is taken into account as revenue in the taxpayer's AFS (the AFS income inclusion rule). Except as provided in paragraph (i) of this section for certain items of income with respect to debt instruments, the AFS income inclusion rule does not apply to any item of gross income, or portion thereof, when the timing of income for that item, or portion thereof, is determined using a special method of accounting, as defined in paragraph (c)(5) of this section. If a special method of accounting is used, income is taken into account as prescribed by that special method of accounting. See, however, paragraph (d) of this section for exceptions for taxpayers without an AFS and income in connection with a mortgage servicing contract.

(c) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Applicable financial statement.* Subject to the rules in paragraph (c)(1)(iv) of this section, *applicable financial statement* (AFS) means the taxpayer's financial statement listed in paragraphs (c)(1)(i) through (iii) of this section that has the highest priority, including priority within paragraphs (c)(1)(i)(B) and (c)(1)(ii)(B) of this section. The financial statements are, in order of descending priority:

(i) *GAAP Statements.* A financial statement that is certified as being prepared in accordance with generally accepted accounting principles (GAAP) and is:

(A) A Form 10–K (or successor form), or annual statement to shareholders, filed with the United States Securities and Exchange Commission (SEC);

(B) An audited financial statement of the taxpayer that is used for:

(*1*) Credit purposes;

(*2*) Reporting to shareholders, partners, or other proprietors, or to beneficiaries; or

(*3*) Any other substantial non-tax purpose; or

(C) A financial statement, other than a tax return, filed with the Federal government or any Federal agency, other than the SEC or the Internal Revenue Service;

(ii) *IFRS Statements.* A financial statement that is certified as being prepared in accordance with international financial reporting standards (IFRS) and is:

(A) Filed by the taxpayer with an agency of a foreign government that is equivalent to the SEC, and has reporting standards not less stringent than the standards required by the SEC;

(B) An audited financial statement of the taxpayer that is used for:

(*1*) Credit purposes;

(*2*) Reporting to shareholders, partners, or other proprietors, or to beneficiaries; or

(*3*) Any other substantial non-tax purpose; or

(C) A financial statement, other than a tax return, filed with the Federal government or any Federal agency, other than the SEC or the Internal Revenue Service, or a foreign government or agency of a foreign government, other than an agency that is equivalent to the SEC or the Internal Revenue Service; or

(iii) *Other Statements.* A financial statement, other than a tax return, filed with the Federal government or any Federal agency, a state government or state agency, or a self-regulatory organization (for example, a financial statement filed with a state agency that regulates insurance companies or the Financial Industry Regulatory Authority). Additional financial statements included in this paragraph (c)(1)(iii) may be provided in guidance published in the Internal Revenue Bulletin (see § 601.601(d) of this chapter).

(iv) *Additional rules for determining priority.* If a taxpayer restates revenue in an AFS prior to the date that the taxpayer files its Federal income tax return for such taxable year, for purposes of determining priority, the restated AFS must be used instead of the original AFS. A taxpayer with different financial accounting and taxable years that is required to file both annual financial statements and periodic financial statements covering less than a year with a government agency must use the annual statement filed with the agency to determine priority.

(2) *Equity method. Equity method* means a method of accounting for financial accounting purposes under which an investment is initially recorded at cost and subsequently increased or decreased in carrying value by the investor's proportionate share of income and losses and such income or losses are reported as separate items on the investor's statement of income.

(3) *Performance obligation. Performance obligation* means a promise in a contract with a customer to transfer to the customer either a good or service, or a combination of both, that is distinct; or a series of distinct goods or services, or a combination of both, that are substantially the same and that have the same pattern of transfer to the customer.

(4) *Revenue. Revenue* means all transaction price amounts includible in gross income under section 61. The characterization of a transaction price in the AFS is not determinative of whether it is taken into account as revenue in a taxpayer's AFS. For example, any transaction price amount that is reported as other comprehensive income in an AFS is taken into account as revenue in an AFS.

(5) *Special method of accounting. Special method of accounting* means a method of accounting permitted or required under any provision of the Code, the Income Tax Regulations, or other guidance published in the Internal Revenue Bulletin (see § 601.601(d) of this chapter) under which an item of income is taken into account in a taxable year other than the taxable year in which the all events test is met. See, however, paragraph (i) of this section relating to certain items of income with respect to debt instruments. The following are examples of special methods of accounting to which the AFS income inclusion rule generally does not apply:

(i) The crop method of accounting under sections 61 and 162;

(ii) Methods of accounting provided in sections 453 through 460;

(iii) Methods of accounting for hedging transactions under § 1.446–4;

(iv) Methods of accounting for REMIC inducement fees under § 1.446–6;

(v) Methods of accounting for gain on shares in a money market fund under § 1.446–7;

(vi) Methods of accounting for certain rental payments under section 467;

(vii) The mark-to-market method of accounting under section 475;

(viii) Timing rules for income and gain associated with a transaction that is integrated under § 1.988–5, and income and gain under the nonfunctional currency contingent payment debt instrument rules in § 1.988–6;

(ix) Except as otherwise provided in paragraph (i) of this section, timing rules for original issue discount (OID) under section 811(b)(3) or 1272 (and the regulations under section 1272), income under the contingent payment debt instrument rules in § 1.1275–4, income under the variable rate debt instrument rules in § 1.1275–5, income and gain associated with a transaction that is integrated under § 1.1275–6, and income under the inflation-indexed debt instrument rules in § 1.1275–7;

(x) Timing rules for de minimis OID under § 1.1273–1(d) and for de minimis market discount (as defined in section 1278(a)(2)(C));

(xi) Timing rules for accrued market discount under sections 1276 and 1278(b); and

(xii) Methods of accounting provided in sections 1502 and 1503 and the regulations thereunder, including the method of accounting relating to intercompany transactions under § 1.1502–13.

(6) *Transaction price.* The transaction price means the gross amount of consideration to which a taxpayer expects to be entitled for AFS purposes in exchange for transferring promised goods, services, or other property, including amounts referred to in paragraph (i) of this section, but not including:

(i) Amounts collected on behalf of third parties (for example, some sales taxes) that are otherwise not income to the taxpayer;

(ii) Increases in consideration to which a taxpayer's entitlement is contingent on the occurrence or nonoccurrence of a future event (for example, bonuses contingent on performance and insurance contract commissions contingent on renewal) for the period in which the amount is contingent. Amounts included in the transaction price for AFS purposes are presumed to not be contingent on the occurrence or nonoccurrence of a future event, unless, upon examination of all the facts and circumstances existing at the end of the taxable year, it can be established to the satisfaction of the Commissioner that the amount is contingent on the occurrence or nonoccurrence of a future event. An amount included in the transaction price for AFS purposes that is actually or constructively received, that is due and payable, or for which the taxpayer has an enforceable right to payment for performance completed to date, however, will not be treated as contingent on the occurrence or nonoccurrence of a future event; or

(iii) Reductions for amounts subject to section 461, including allowances, adjustments, rebates, chargebacks, refunds, rewards (for example, estimated redemption costs associated with loyalty programs), and amounts included in costs of goods sold.

(d) *Exceptions to the AFS income inclusion rule.* The AFS income inclusion rule does not apply unless all of the taxpayer's taxable year is covered by an AFS. In addition, the AFS income inclusion rule does not apply to any item of income in connection with a mortgage servicing contract.

(e) *No change in the treatment of a transaction.* Except as provided in paragraph (i)(2) of this section, the AFS income inclusion rule does not change the treatment of a transaction for Federal income tax purposes. The following are examples of transactions where the treatment for AFS purposes does not change the treatment of the transaction for Federal income tax purposes:

(1) A transaction treated as a lease, license, or similar transaction for Federal income tax purposes that is treated as a sale or financing for AFS purposes, and vice versa;

(2) A transaction that is not required to be marked-to-market for Federal income tax purposes but that is marked-to-market for AFS purposes;

(3) Asset sale and liquidation treatment under section 336(e) or 338(h)(10);

(4) A distribution of a corporation or the allocable share of partnership items or an income inclusion under section 951, 951A, or 1293(a) for Federal income tax purposes that is accounted for under the equity method for AFS purposes;

(5) A distribution of previously taxed earnings and profits of a foreign corporation; and

(6) A deposit or conduit payment for Federal income tax purposes that is treated as revenue for AFS purposes.

(f) *No change to exclusion provisions and the treatment of non-recognition transactions.* The AFS income inclusion rule does not change the applicability of any exclusion provision, or the treatment of non-recognition transactions, in the Code, the Income Tax Regulations, or other guidance published in the Internal Revenue Bulletin (see § 601.601(d) of this chapter). The following are examples of exclusion provisions and non-recognition transactions that are not affected by the AFS income inclusion rule:

(1) Any non-recognition transaction, within the meaning of section 7701(a)(45), (for example, a liquidation

described in sections 332 and 337, an exchange described in section 351, a distribution described in section 355, a reorganization described in section 368, a contribution described in section 721, or transactions described in sections 1031 through 1045); and

(2) Items specifically excluded from income under sections 101 through 140.

(g) *Contracts with multiple performance obligations*—(1) *In general.* For purposes of this section, if a taxpayer's contract with a customer has more than one performance obligation, transaction price is allocated to performance obligations as transaction price is allocated to performance obligations in the taxpayer's AFS.

(2) *Example.* Taxpayer A, a manufacturer and servicer of airplane parts, is a calendar-year accrual method taxpayer with an AFS. In 2018, A enters into a $100x contract to sell airplane parts and to service those parts, as necessary, in 2018, 2019, and 2020. For AFS purposes, A allocates $40x of the total contract price to the delivery of parts in 2018, $10x to the provision of services in 2018, $20x to the provision of services in 2019, and $30x to the provision of services in 2020. In 2018, A delivers parts and provides services. On its 2018 AFS, A includes the $40x for the delivery of parts and the $10x for the provision of services in revenue. Under paragraph (g)(1) of this section, because the contract involves multiple performance obligations, A must use its transaction price AFS allocation to determine whether income from the sale of airplane parts and services are included in revenue in its AFS for purposes of this section. Accordingly, under the AFS income inclusion rule in paragraph (b) of this section, for the $40x sale of airplane parts and the $10x provision of services in 2018 the all events test is not met any later than A's 2018 taxable year.

(h) *Additional AFS issues*—(1) *AFS covering groups of entities*—(i) *In general.* For purposes of this section, if a taxpayer's financial results are reported on the AFS for a group of entities, the taxpayer's AFS is the group's AFS. However, if the taxpayer's financial results are also reported on a separate AFS that is of equal or higher priority to the group's AFS under paragraph (c)(1) of this section, then the taxpayer's AFS is the separate AFS.

(ii) *Example.* Taxpayer B, a reseller of computers and electronics, is a calendar-year accrual method taxpayer. In 2018, B's financial results are included in its parent corporation's consolidated Form 10–K filed with the SEC, but it files a separate Federal income tax return. Under paragraph (h)(1) of this section, because its financial results are reported on the AFS for its parent corporation, B must use its parent corporation's consolidated Form 10–K as its AFS. Accordingly, under the AFS income inclusion rule in paragraph (b) of this section, for the sale of computers and electronics the all events test is not met any later than when the sale is included in its parent corporation's consolidated Form 10–K.

(2) *Separately stated items.* If a group's AFS is treated as the taxpayer's AFS, the taxpayer must look to any separately stated items to determine the amount of revenue allocated to the taxpayer.

(3) *Non-separately stated items.* If a group's AFS does not separately state items, the portion of the revenue allocable to the taxpayer is determined by relying on the source documents that were used to create the group's AFS.

(4) *Computation of revenue when the AFS covers mismatched reportable periods*—(i) *In general.* If a taxpayer's AFS is prepared on the basis of a financial accounting year that differs from the taxpayer's taxable year, the taxpayer must use one of the permissible methods listed in paragraph (h)(4)(ii) of this section to determine revenue for purposes of the AFS income inclusion rule.

(ii) *Permissible methods to determine revenue.* For purposes of paragraph (h)(4)(i) of this section, a taxpayer must use one of the following methods to determine revenue for the taxable year in order to apply the AFS income inclusion rule:

(A) The taxpayer computes revenue by using the accounting principles used to create its AFS to determine whether an item would be included in revenue in an AFS for the taxable year as if its financial reporting period was the same as its taxable year, for example, by conducting an interim closing of its books.

(B) The taxpayer computes revenue by including a pro rata portion of the revenue for each financial accounting year that includes any part of the taxpayer's taxable year. If the taxpayer's AFS for part of the taxable year is not available by the due date of the return (with extension), the taxpayer must make a reasonable estimate of revenue for the pro rata portion of the taxable year for which an AFS is not yet available. See § 1.451–1(a) for adjustments after actual amounts are determined.

(C) If a taxpayer's financial accounting year ends five or more months after the end of its taxable year, the taxpayer computes revenue for Federal income tax purposes based on the revenue reported on the AFS prepared for the financial accounting year ending within the taxpayer's taxable year. For purposes of this paragraph (h)(4)(ii)(C), if a taxpayer uses a 52–53 week year for financial accounting or Federal income tax purposes, the last day of such year shall be deemed to occur on the last day of the calendar month ending closest to the end of such year.

(iii) *Method of accounting.* A change in the method of computing revenue under this paragraph (h)(4) is a change in method of accounting under section 446. A taxpayer may change its method of accounting only with the consent of the Commissioner as required under section 446(e) and the corresponding regulations.

(5) *Restatement of AFS.* If a taxpayer restates revenue on an AFS and such restatement changes the timing of when an item of income, or a portion thereof, is taken into account as revenue on the AFS, the change constitutes a change in method of accounting under section 446. A taxpayer may change its method of accounting only with the consent of the Commissioner as required under section 446(e) and the corresponding regulations. If a taxpayer restates revenue on an AFS to correct an error or the restatement results in a change in the estimate of the taxpayer's pro rata portion of revenue under paragraph (h)(4)(ii)(B) of this section, see § 1.451–1(a).

(i) *Special ordering rule for certain items of income with respect to debt instruments*—(1) *In general.* If an item of income, or portion thereof, with respect to a debt instrument is described in paragraph (i)(2) of this section, the rules of this section apply before the rules in sections 1271 through 1275 and §§ 1.1271–1 through 1.1275–7 (OID rules). Therefore, an item of income, or portion thereof, described in paragraph (i)(2) of this section may not be taken into income later than when that item, or portion thereof, is taken into account as revenue in the taxpayer's AFS, regardless of whether the timing of income inclusion for that item is normally determined using a special method of accounting. See also § 1.1275–2(l) for the treatment of the items described in paragraph (i)(2) of this section under the OID rules.

(2) *Specified fees.* Paragraph (i)(1) of this section applies to fees (specified fees) that are not treated as discount or as an adjustment to the yield of a debt instrument over the life of the instrument (such as points) in the taxpayer's AFS and, but for paragraph (i) of this section and § 1.1275–2(l), would be treated as creating or increasing OID for Federal income tax purposes. For example, the following specified fees (specified credit card fees) are described in this paragraph (i)(2):

(i) A payment of additional interest or a similar charge provided with respect to amounts that are not paid when due on a credit card account (for example, credit card late fees);

(ii) Amounts charged under a credit card agreement when the cardholder uses the credit card to conduct a cash advance transaction (for example, credit card cash advance fees); and

(iii) Amounts a credit or debit card issuer is entitled to upon a purchase of goods or services by one of its cardholders (for example, interchange fees, which are sometimes labeled merchant discount in certain private label credit card transactions).

(3) *Example.* Taxpayer C, a credit card issuer, is a calendar-year accrual method taxpayer with an AFS. In 2019, a cardholder uses C's credit card to purchase $100 of merchandise from a merchant and the cardholder earns a reward of 1% of the purchase price of $100 ($1) as part of C's cardholder loyalty program. Upon purchase, C becomes entitled to an interchange fee equal to 2% of the purchase price of $100 ($2). In 2019, C reports the $2 of interchange fees as revenue in its AFS. C's $2 of interchange fees is described in paragraph (i)(2)(iii) of this section. Under paragraph (i)(1) of this section, C must apply the rules in this section before applying the OID rules. See also § 1.1275–2(l). Therefore, C's $2 of interchange fees is included in taxable income in 2019, the year it is included as revenue in C's AFS. Under paragraph (c)(6)(iii) of this section, the $2 of interchange revenue is not reduced by the $1 reward. Even if C reports interchange fees net of rewards in its AFS for 2019 ($2 of interchange fee minus $1 reward liability), under paragraph (c)(6) of this section, C includes $2 of interchange revenue in taxable income in 2019. See §§ 162 and 461(h) for the treatment of the reward by C.

(j) *Treatment of adjustments to deferred revenue in an AFS*—(1) *In general.* For purposes of this section, if a taxpayer treats an item of income as deferred revenue in its AFS and writes down or adjusts that item, or portion thereof, to an equity account (for example, retained earnings) or otherwise writes down or adjusts that item of deferred revenue in a subsequent taxable year, revenue for that subsequent taxable year includes that item, or portion thereof, that is written down or adjusted.

(2) *Example.* Taxpayer D, a remanufacturer of industrial equipment, is a calendar-year accrual method taxpayer with an AFS. In 2018, D enters into a contract with a customer to remanufacture equipment in 2019 and 2020 for $100x. The contract is not a long-term contract under section 460. In its 2018 AFS, D treats the $100x as deferred revenue. In 2019, all the stock of D is acquired by an unrelated third party. In its 2019 AFS, D adjusts deferred revenue to $90x (the expected cost to provide the services) by charging $10x ($100x − $90x = $10x) to retained earnings. In its 2019 AFS, D includes $50x of the $90x of deferred revenue in revenue. Under paragraph (j)(1) of this section, D's adjustment to deferred revenue in 2019 is treated as revenue under paragraph (c)(4) of this section in 2019. Therefore, under the AFS income inclusion rule in paragraph (b) of this section, D is treated as including $60x ($50x + $10x = $60x) in revenue in its 2019 AFS, and the all events test is met for that $60x no later than D's 2019 taxable year.

(k) *Cumulative rule for multi-year contracts.* In the case of a multi-year contract, a taxpayer must take into account the cumulative amounts included in income in prior taxable years on the contract, if any, in order to determine the amount to be included for the taxable years remaining in the contract. For purposes of this paragraph (k), multi-year contract means a contract that spans more than one taxable year.

(l) *Methods of accounting*—(1) *In general.* A change in the method of recognizing revenue in an AFS that changes or could change the timing of the recognition of income for Federal income tax purposes is a change in method of accounting under section 446. A taxpayer may change its method of accounting only with the consent of the Commissioner as required under section 446(e) and the corresponding regulations. Accordingly, a taxpayer that changes the method of accounting used to recognize revenue in its AFS is required to secure consent of the Commissioner before computing income using this new method for Federal income tax purposes.

(2) *Transition rule for changes in method of accounting*—(i) *In general.* Except as provided in paragraph (l)(2)(ii) of this section, a taxpayer that makes a qualified change in method of accounting for the taxpayer's first taxable year beginning after December 31, 2017, is treated as making a change in method initiated by the taxpayer for purposes of section 481(a)(2). A taxpayer obtains the consent of the Commissioner to make a qualified change in method of accounting by using the applicable administrative procedures that govern voluntary automatic changes in method of accounting under section 446(e). See section § 1.446–1(e)(3).

(ii) *Special rules for OID and specified fees.* The rules of paragraph (l)(2)(i) of this section apply to a qualified change in method of accounting required under section 451(b) and paragraph (i) of this section for the taxpayer's first taxable year beginning after December 31, 2018, if the change relates to a specified credit card fee (as defined in paragraph (i)(2) of this section). The rules of paragraph (l)(2)(i) of this section apply to a qualified change in method of accounting required under section 451(b) and paragraph (i) of this section for the taxpayer's first taxable year beginning one year after the date the Treasury decision adopting these regulations as final is published in the **Federal Register**, if the change relates to a specified fee (as defined in paragraph (i)(2) of this section) other than a specified credit card fee. For purposes of this paragraph (l)(2)(ii), the section 481(a) adjustment period for any adjustment under section 481(a) for a qualified change in method of accounting required under section 451(b) and paragraph (i) of this section is six taxable years.

(iii) *Qualified change in method of accounting.* For purposes of paragraph (l)(2) of this section, a qualified change in method of accounting means any change in method of accounting that is required by section 13221 of the Tax Cuts and Jobs Act, Public Law 115–97 (131 Stat. 2054) (TCJA), or was prohibited under the Internal Revenue Code of 1986 prior to TCJA section 13221 and is now permitted as a result of TCJA section 13221.

(m) *Examples.* The following examples illustrate the provisions of this section:

(1) *Example 1. Mismatched reportable periods.* Taxpayer A is a calendar-year accrual method taxpayer with an AFS. For AFS purposes, A's financial results are reported on a June 30 fiscal year. Using the method described in paragraph (h)(4)(ii)(A) of this section, for the taxable year 2018, A uses the financial results reported on its June 30, 2018, AFS to determine whether an item of income was taken into account as revenue in A's AFS from January 1, 2018, through June 30, 2018, and uses its June 30, 2019, AFS to determine whether an item of income is taken into account as revenue in A's AFS from July 1, 2018, through December 31, 2018.

(2) *Example 2. Provision of installation services.* Taxpayer B is a calendar-year accrual method taxpayer with an AFS. In 2018, B enters into a contract with a customer to provide manufacturing equipment installation services for $100,000. Throughout the contract, the customer retains control of the equipment. B has an enforceable right to payment for services partially performed. The contract is not a long-term contract under section 460. B begins providing the installation services in 2018 and completes the installation services in 2019. Under the contract, B bills the customer $50,000 in 2018 when installation begins. B includes $60,000 in revenue in its 2018 AFS and $40,000 in revenue in its 2019 AFS. Under the AFS income inclusion rule in paragraph (b) of this section, because $60,000 of revenue from the installation services is included in B's 2018 AFS, the all events test for that $60,000 of income is met in B's 2018 taxable year.

(3) *Example 3. Provision of goods.* Taxpayer C is a calendar-year accrual method taxpayer with an AFS. In 2018, C enters into

a contract with a customer to provide 50 customized computers for $80,000. Under the contract, C can bill $80,000 after the customer accepts delivery of the computers. However, because of the customization, the contract provides that C can be paid for work performed to date, even if the contract is not completed for reasons other than C's failure to perform. C delivers all of the computers in 2018. Customer accepts delivery of the computers and C bills the customer in 2019. C includes all $80,000 in revenue in its 2018 AFS. Under the AFS income inclusion rule in paragraph (b) of this section, because $80,000 of revenue from the provision of goods is included in C's 2018 AFS, the all events test for that $80,000 of income is met in C's 2018 taxable year. Under paragraph (c)(6)(ii) of this section, the limitation on C's ability to bill until after the customer accepts delivery of the computers is not a future event that restricts C's enforceable right to payment for the goods.

(4) *Example 4. Provision of services included in AFS without deferral of advance payments under section 451(c)(1)(B).* Taxpayer D, an engineering services provider, is a calendar-year accrual method taxpayer with an AFS. In 2018, D enters into a contract with a customer to provide services for four years for a total of $100x. Under the contract, D receives $25x each year of the contract. D does not elect to defer advance payments under section 451(c)(1)(B). For AFS purposes, D reports $50x, $0, $20x, and $30x of revenue from the contract in 2018, 2019, 2020, and 2021, respectively. Under paragraph (g)(1) of this section, the allocation of the transaction price in D's AFS is used to determine when all or part of that item is taken into account for purposes of paragraph (b) of this section. In 2018, D includes all of the $25x payment in income from the contract under the all events test. In addition, under paragraph (b) of this section, because $50x of revenue from the provision of services is included in D's 2018 AFS, the all events test for that portion of the provision of services is not met later than D's 2018 taxable year. Therefore, D must include the additional $25x ($50x − $25x = $25x) reported on the AFS as income in 2018. In 2019, under paragraph (k) of this section, D includes $0 of the $25x payment in income from the contract because the payment received in 2019 relates to income included in 2018. In 2020, D includes all of the $25x payment in income from the contract under the all events test. In 2021, D includes the remaining $25x payment in income under the contract under the all events test. This example is summarized in the table below:

	2018	2019	2020	2021	Total
Payments	$25x	$25x	$25x	$25x	$100x
AFS Revenue	50x	0	20x	30x	100x
Income	50x	0	25x	25x	100x

(5) *Example 5. Provision of services included in AFS with deferral of advance payments under section 451(c)(1)(B).* The facts are the same as in *Example 4* in paragraph (m)(4) of this section, except D elects to defer advance payments under section 451(c)(1)(B). Under paragraph (g)(1) of this section, the allocation of the transaction price in D's AFS is used to determine when all or part of that item is taken into account for purposes of paragraph (b) of this section. In 2018, D includes all of the $25x payment in income from the contract under the all events test. In addition, under paragraph (b) of this section, because $50x of revenue from the provision of services is included in D's 2018 AFS, the all events test for that portion of the provision of services is not met later than D's 2018 taxable year. Therefore, D must include an additional $25x ($50x—$25x = $25x) of income in 2018. In 2019, under paragraph (k) of this section, D includes $0 of the $25x payment in income from the contract because the payment received in 2019 relates to income included in 2018. In 2020, D includes $20x of the $25x payment in income from the contract under the deferral method for advance payments under section 451(c)(1)(B). In 2021, D includes the $5x that was deferred in 2020 under the deferral method for advance payments under section 451(c)(1)(B) and the remaining $25x payment in income under the contract under the all events test. This example is summarized in the table below:

	2018	2019	2020	2021	Total
Payments	$25x	$25x	$25x	$25x	$100x
AFS Revenue	50x	0	20x	30x	100x
Income	50x	0	20x	30x	100x

(6) *Example 6. Sale of goods with AFS revenue adjustments.* Taxpayer E, a manufacturer of automobile parts, is a calendar-year accrual method taxpayer with an AFS. E normally sells parts for $10 per part with a 2% bonus if the parts are delivered on time. Traditionally, 5% of parts sold are returned. In 2018, E enters a contract to sell 1,000 parts to a customer for $10 per part, for a total of $10,000 (1,000 x $10 = $10,000). The contract also provides that E will receive a 2% bonus if it delivers all the parts to the customer by February 1, 2019. E delivers 500 parts to the customer on December 31, 2018. On December 31, 2018, the additional 500 parts were scheduled for shipment to the customer on January 4, 2019. For AFS purposes, E expects to earn the 2% bonus and to have 5% of the parts returned. In its 2018 AFS, E reports $4,850 ($5,000 + $100—$250 = $4,850) of revenue from the contract, including a $100 (2% x $5,000 = $100) adjustment for the expected bonus and a $250 (5% x $5,000 = $250) adjustment for anticipated returns. Under paragraph (c)(6)(iii) of this section, E's transaction price does not include anticipated returns. See § 1.461–4(g)(3) for rules on when the return liability is incurred. Under paragraph (c)(6)(ii) of this section, the performance bonus is presumed not to be contingent on the occurrence or nonoccurrence of a future event. However, at the end of the year, all parts have yet to be delivered within the February 1, 2019 deadline. Under the contract, E has no right to payment of the bonus at the end of the year. Therefore, the presumption is rebutted. In addition, under paragraph (g)(1) of this section, the allocation of the transaction price in E's AFS is used to determine when all or part of that item is taken into account for purposes of paragraph (b) of this section. Accordingly, under paragraph (b) of this section, because $5,000 of revenue from the sale of parts is taken into account in E's 2018 AFS, the all events test for $5,000 of income allocated to those parts is met in E's 2018 taxable year.

(7) *Example 7. Chargebacks.* Taxpayer F, a manufacturer of pharmaceuticals, is a calendar-year accrual method taxpayer with an AFS. In addition to billing the wholesaler for the sale of the pharmaceutical at the wholesale acquisition cost under the contract, F generally credits or pays wholesalers a chargeback of 40% of the wholesale acquisition cost for sales made by those wholesalers to qualifying customers. In 2018, F enters into a contract to sell 1,000 units to W, a wholesaler, for $10 per unit, totaling $10,000 (1,000 x $10 = $10,000). The contract also provides that F will issue a 40% chargeback for sales by W to certain qualifying customers. F delivers 600 units to W on December 31, 2018, and bills W $6,000 under the contract. For AFS purposes, F adjusts its revenue by 40% for all sales to W for anticipated chargebacks. As such, in its 2018 AFS, F reports $3,600 ($6,000 − $2,400 = $3,600) of revenue from the contract with W, decreasing revenue by $2,400 (40% x $6,000 = $2,400) for anticipated chargeback claims. For Federal income tax purposes, under paragraph (c)(6)(iii) of this section, F's 2018 revenue is $6,000 because F's revenue is not reduced for anticipated chargebacks.

(8) *Example 8. Sale of property using a special method of accounting.* Taxpayer G, a

provider of financial services, is a calendar-year accrual method taxpayer with an AFS. In 2018, G sells a building for $100x, payable in five annual payments of $20x starting in 2018. In its 2018 AFS, G reports all $100x of revenue from the sale of the building. For Federal income tax purposes, G uses the installment method under section 453 for the sale of the building. Under paragraph (c)(5) of this section, the installment method under section 453 is a special method of accounting because it requires income to be taken into account in a taxable year other than the taxable year in which the all events test is met. Therefore, under paragraph (b) of this section, this section does not apply to G's sale of the building because it is using a special method of accounting and the income is taken into account as prescribed in section 453.

(9) *Example 9. Non-recognition provisions not changed for Federal income tax purposes.* Taxpayer H (Distributing) is a calendar-year accrual method C corporation with an AFS. On December 31, 2018, Distributing (i) contributes assets to a wholly owned subsidiary (Controlled) in exchange for Controlled stock and $100x, and (ii) distributes all of Controlled's stock pro rata to its shareholders. The transaction qualifies as a reorganization under section 368(a)(1)(D) and a distribution to which section 355 applies (D reorganization). Distributing's realized gain on the transferred assets for book and tax purposes is $150x. On January 15, 2019, in pursuance of the plan of reorganization, Distributing distributes the $100x to its shareholders. Consequently, no gain to Distributing is recognized under section 361(b)(1)(A). On Distributing's 2018 AFS, Distributing recognizes revenue of $150x related to the D reorganization. Under paragraph (f) of this section, nothing in section 451(b) or this section changes the applicability of any deferral, non-recognition, or exclusion provision of the Code, the Income Tax Regulations, or other guidance published in the Internal Revenue Bulletin. Section 361 provides that Distributing does not recognize any gain from the D reorganization. Pursuant to paragraph (f) of this section, nothing in section 451(b) or this section would change the result that Distributing does not recognize gain on Distributing's (i) contribution of assets to Controlled, (ii) receipt of Controlled stock and cash, and (iii) distribution of Controlled stock and cash to Distributing's shareholders.

(10) *Example 10. Insurance contract renewals.* The taxpayer, an insurance agent, is engaged by an insurance carrier to sell insurance. By written binding contract between the taxpayer and the insurance carrier, the taxpayer is entitled to receive a $50 commission from the insurance carrier at the time a policy is sold to a customer. The written binding contract also provides that the taxpayer is entitled to receive an additional $25 commission each time a policy is renewed. The taxpayer sells 1,000 one-year policies in year one, of which 800 are renewed in year two and 700 are renewed in year three. The taxpayer does not have any ongoing obligation to provide additional services to the insurance carrier or the customers after the initial sale of the policy. The taxpayer includes $86,000 in revenue in its AFS for year one, which includes $50,000 of consideration for policies sold in year one and an estimate of $36,000 of consideration for the policies expected to be renewed in years two and three. Under paragraph (c)(6)(ii) of this section, because the taxpayer is able to demonstrate by written binding contract that the amounts related to future insurance contract renewals are contingent on the occurrence of a future event (that is the customer contract renewal), the taxpayer's transaction price from commissions is $50,000 ($50 * 1,000) in year one, $20,000 ($25 * 800) in year two, and $17,500 ($25 * 700) in year three.

(n) *Applicability date*—(1) *In general.* Except as provided in paragraph (n)(2) of this section, these regulations are proposed to apply for taxable years beginning after the date the Treasury decision adopting these regulations as final is published in the **Federal Register**.

(2) *Delayed application with respect to certain fees.* Notwithstanding paragraph (n)(1) of this section, paragraph (i)(2) of this section is proposed to apply to specified fees (as defined in paragraph (i)(2) of this section) other than specified credit card fees (as defined in paragraph (i)(2) of this section) for taxable years beginning one year after the date the Treasury decision adopting these regulations as final is published in the **Federal Register**.

(3) *Early application of this section*—(i) *In general.* Except as provided in paragraph (n)(3)(ii) of this section, until the date the Treasury decision adopting these regulations as final regulations is published in the **Federal Register**, a taxpayer may rely on these proposed regulations for taxable years beginning after December 31, 2017, if the taxpayer applies all the applicable rules contained in these proposed regulations (other than those applicable to specified fees), and consistently applies these proposed regulations to all items of income during the taxable year (other than specified fees).

(ii) *Certain fees*—(A) *Specified credit card fees.* Until the date the Treasury decision adopting these regulations as final regulations is published in the **Federal Register**, in the case of a specified credit card fee, a taxpayer may rely on these proposed regulations for taxable years beginning after December 31, 2018, if the taxpayer applies all the applicable rules contained in these proposed regulations for a specified credit card fee, and consistently applies these proposed regulations to all items of income during the taxable year (other than specified fees that are not specified credit card fees).

(B) *Specified fees.* Paragraph (n)(3)(i) of this section does not apply to specified fees that are not specified credit card fees.

■ **Par. 6.** Section 1.1275–2 is amended by adding paragraph (l) to read as follows:

§ 1.1275–2 Special rules relating to debt instruments.

* * * * *

(l) *OID rule for income item subject to section 451(b)*—(1) *In general.* Notwithstanding any other rule in sections 1271 through 1275 and §§ 1.1271–1 through 1.1275–7, if, and to the extent, a taxpayer's item of income with respect to a debt instrument is subject to the timing rules in § 1.451–3(i) (including credit card late fees, credit card cash advance fees, or interchange fees), then the taxpayer does not take the item into account to determine whether the debt instrument has any OID. As a result, the taxpayer does not treat the item as creating or increasing any OID on the debt instrument.

(2) *Applicability dates*—(i) *In general.* Except as provided in paragraphs (l)(2)(ii) and (iii) of this section, paragraph (l)(1) of this section applies for taxable years beginning after the date the Treasury decision adopting these regulations as final is published in the **Federal Register**.

(ii) *Early adoption.* Until the date the Treasury decision adopting these regulations as final regulations is published in the **Federal Register**, a taxpayer may rely on these proposed regulations for taxable years beginning after December 31, 2018, for a specified credit card fee as defined in § 1.451–3(i)(2), if applied consistently to all specified credit card fees subject to § 1.451–3(i).

(iii) *Applicability date for purposes of accounting method changes.* Paragraph (l)(1) of this section will not apply for purposes of applying section 13221(e) of the Tax Cuts and Jobs Act, Public Law 115–97 (131 Stat. 2054) to determine the section 481(a) adjustment period for any adjustment under section 481(a) for a qualified change in method of accounting required under section 451(b) and § 1.451–3(i) for the items subject to § 1.451–3(i).

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2019–19325 Filed 9–5–19; 4:15 pm]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2019–0497; FRL–9999–35–Region 9]

Air Plan Approval; Arizona; Maricopa County Air Quality Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Maricopa County Air Quality Department (MCAQD) portion of the Arizona State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOCs) and particulate matter (PM) from brick and structural clay products manufacturing, rubber sports ball manufacturing, and vegetable oil extraction processes. We are proposing approval of the rescission of local rules that regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by October 9, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2019–0497 at *https://www.regulations.gov*. For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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: Robert Schwartz, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3286 or by email at *schwartz.robert@epa.gov*.

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

Table of Contents

I. The State's Submittal
A. What rules did the County rescind?
B. What is the purpose of the SIP-approved rules?
II. The EPA's Evaluation and Action
A. How is the EPA evaluating the request for rescission?
B. Do the rule rescissions meet the evaluation criteria?
C. Public Comment and Proposed Action
III. Statutory and Executive Order Reviews

I. The State's Submittal

A. What rules did the County rescind?

Table 1 lists the rules addressed by this proposal with the dates that they were most recently adopted by MCAQD and approved by the EPA. MCAQD rescinded these rules on December 13, 2017, from the local rulebook, and forwarded the rescissions to the Arizona Department of Environmental Quality (ADEQ) for adoption and submittal to the EPA for approval. On December 18, 2017, ADEQ adopted the rule rescissions and submitted them to the EPA for approval.

TABLE 1—MCAQD RULES FOR WHICH RESCISSION HAS BEEN SUBMITTED FOR APPROVAL

Local agency	Rule No.	Rule title	Adopted/revised	SIP approval date
MCAQD	325	Brick and Structural Clay Products (BSCP) Manufacturing	08/10/2005	08/21/2007
MCAQD	334	Rubber Sports Ball Manufacturing	06/19/1996	02/09/1998
MCAQD	339	Vegetable Oil Extraction Processes	11/16/1992	02/09/1998

On June 18, 2018, the submittal of the rescission of MCAQD Rules 325, 334, and 339 was deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. What is the purpose of the SIP-approved rules?

Emissions of VOCs contribute to ground-level ozone, smog and PM, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Rule 334 and Rule 339 were adopted to meet reasonably available control measures (RACM)/reasonably available control technology (RACT) requirements as a result of the 1990 Clean Air Act Amendments (CAAA), and they address specific, single sources in each rule that were emitting ≥100 tons of VOC/year. The purpose of Rule 334 is to limit VOC emissions from natural and synthetic rubber adhesives used in the manufacture of non-inflatable rubber balls. The source, Penn Racquet Sports, ceased rubber sports ball manufacturing operations in Maricopa County in 2009, and MCAQD closed Penn Racquet Sports' permit in 2009. The purpose of Rule 339 is to limit VOC emissions during the extraction of vegetable oil using solvents. MCAQD closed Western Cotton Services' permit (operated by Anderson Clayton Corp.) in 1999. MCAQD does not anticipate any new sources that would be subject to Rule 334 or Rule 339 to establish operations in Maricopa County. The EPA's technical support document (TSD) has more information about these rules.

Emissions of PM, including PM equal to or less than 2.5 microns in diameter ($PM_{2.5}$) and PM equal to or less than 10 microns in diameter (PM_{10}), contribute to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires states to submit regulations that control PM emissions. Rule 325 was adopted to meet the best available control measures (BACM)/most stringent measures (MSM) requirements for all significant sources of PM_{10} for the Phoenix planning area of Maricopa County, classified as Serious nonattainment in 1996 for the annual and 24-hour PM_{10} national ambient air quality standard (NAAQS).

The purpose of Rule 325 is to limit particulate matter emissions from the use of tunnel kilns for curing in brick and structural clay products (BSCP) manufacturing processes. The source, Phoenix Brick Yard, ceased manufacturing operations in Maricopa County in 2012 and its air quality permit from MCAQD was closed in 2012. MCAQD does not anticipate any new sources that would be subject to Rule 325 to establish operations in Maricopa County. The EPA's TSD has more information about this rule.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the request for rescission?

Once a rule has been approved as part of a SIP, the rescission of that rule from the SIP constitutes a SIP revision. To approve such a revision, the EPA must determine whether the revision meets relevant CAA criteria for stringency, if any, and complies with restrictions on relaxation of SIP measures under CAA section 110(l), and the General Savings Clause in CAA section 193 for SIP-approved control requirements in effect before November 15, 1990.

Stringency: Generally, SIP rules must require RACT for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of VOCs in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2)). The MCAQD regulates an ozone nonattainment area classified as Moderate for the 2008 8-hour NAAQS (40 CFR 81.303).[1]

Additionally, SIP rules must implement BACM, including Best Available Control Technology (BACT), in Serious PM_{10} nonattainment areas (see CAA section 189(b)(1)(B)). The MCAQD regulates a PM_{10} nonattainment area classified as Serious for the PM_{10} NAAQS (40 CFR 81.303).

Plan Revisions: States must demonstrate that SIP revisions would not interfere with attainment, reasonable further progress or any other applicable requirement of the CAA under the provisions of CAA section 110(l). Therefore, consistent with CAA section 110(l) requirements, MCAQD must demonstrate that the rescission of Rules 325, 334, and 339 would not interfere with attainment and reasonable further progress (RFP) of the NAAQS or any other applicable CAA requirement.

General Savings Clause: CAA section 193 prohibits the modification of any control requirement in effect, or required to be adopted by an order, settlement agreement or plan in effect before November 15, 1990, in areas designated as nonattainment for an air pollutant unless the modification ensures equivalent or greater emission reductions of the relevant pollutant.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).
4. ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998 (August 16, 1994).
5. ''PM–10 Guideline Document,'' EPA 452/R–93–008, April 1993.

B. Do the rule rescissions meet the evaluation criteria?

We have concluded that MCAQD Rules 325, 334, and 339 are appropriate for rescission, given that the sources for which the rules were originally developed have shut down and no longer perform manufacturing operations in the Phoenix-Mesa area, as evidenced by the surrender of their operating permits.[2] [3] [4] In addition, we find no other sources subject to these rules in Maricopa County, as evidenced by our review of the Maricopa County emissions inventories for PM_{10} and VOCs.[5] MCAQD also documented[6] [7] [8] that these three rescissions will not result in any changes to allowable or actual emissions from existing sources of ozone precursors or particulate matter, and will not interfere with the attainment or maintenance of the applicable NAAQS in the Phoenix-Mesa area. We agree with MCAQD that no such changes or interference would result from the subject rule rescissions. Lastly, we note that Rules 325, 334, and 339 were SIP-approved post-1990; therefore, CAA section 193 does not apply to this action.

C. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to approve the rescission of MCAQD Rules 325 (Brick and Structural Clay Products (BSCP) Manufacturing), 334 (Rubber Sports Ball Manufacturing) and 339 (Vegetable Oil Extraction Processes) from the Maricopa County portion of the Arizona SIP because they are no longer necessary to meet any CAA requirement and because rescission would not interfere with reasonable further progress or attainment of any of the NAAQS. We will accept comments from the public on this proposal until October 9, 2019. If we take final action to approve the rule rescissions, our final action will remove these rules from the federally enforceable SIP.

III. Statutory and Executive Order Reviews

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

[1] The Phoenix-Mesa area, which includes the northern two-thirds of Maricopa County and small portions of Pinal County, is classified as Moderate nonattainment for the 2008 ozone NAAQS and Marginal nonattainment for the 2015 ozone NAAQS. See 40 CFR 81.303.

[2] Letter dated April 7, 2016, from Richard Sumner, Manager, MCAQD Permitting Division, to Clinton-Campbell Contractor, Inc., Owner, Phoenix Brick Yard, ''Your air quality permit #090298 was permanently relinquished on August 13, 2012 and has been closed.''

[3] MCAQD Permit Closeout Form, dated August 4, 2009, for Head Penn Racquet Sports permit #V95001, signed by Douglas L. Erwin, Manager, Permit Division, MCAQD.

[4] Email dated June 20, 2019, from Richard Sumner, Manager, MCAQD Permitting Division, to Lisa Beckham, U.S. EPA Region IX, with attachments detailing closeout of Western Cotton Services permit (operated by Anderson Clayton Corp.) on March 4, 1999.

[5] The EPA 2014 National Emissions Inventory (NEI), facility-level emissions.

[6] MCAQD, ''Revision to Arizona's State Implementation Plan, Rescission of Rule 325 from the Maricopa County Air Pollution Control Rules and Regulations,'' December 2017, sections 2.2(c), 2.2(d), p.5–6.

[7] MCAQD, ''Revision to Arizona's State Implementation Plan, Rescission of Rule 334 from the Maricopa County Air Pollution Control Rules and Regulations,'' December 2017, sections 2.2(c), 2.2(d), p.5–6.

[8] MCAQD, ''Revision to Arizona's State Implementation Plan, Rescission of Rule 339 from the Maricopa County Air Pollution Control Rules and Regulations,'' December 2017, sections 2.2(c), 2.2(d), p.5–6.

beyond those imposed by state law. For that reason, this proposed action:

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: August 27, 2019.

Michael Stoker,

Regional Administrator, Region IX.

[FR Doc. 2019–19308 Filed 9–6–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2018–0710; FRL–9999–44-Region 4]

Air Plan Approval; GA; Nonattainment New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision provided by the State of Georgia, through the Georgia Environmental Protection Division (GA EPD) of the Department of Natural Resources, via a letter dated July 2, 2018. Specifically, EPA is proposing to approve changes to Georgia's Nonattainment New Source Review (NNSR) permitting rules. This action is being proposed pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

DATES: Comments must be received on or before October 9, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. at EPA–R04–OAR–2018–0710 at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can also be reached via electronic mail at *lakeman.sean@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The New Source Review (NSR) program is a preconstruction permitting program that requires certain stationary sources of air pollution to obtain permits prior to beginning construction. The NSR permitting program applies to new construction and to modifications of existing sources. New construction and modifications that emit ''regulated NSR pollutants'' over certain thresholds are subject to major NSR requirements, while smaller emitting sources and modifications may be subject to minor NSR requirements.

Major NSR permits for sources that are located in attainment or unclassifiable areas are referred to as Prevention of Significant Deterioration (PSD) permits. Major NSR permits for sources located in nonattainment areas and that emit pollutants above the specified thresholds for which the area is in nonattainment are referred to as NNSR permits.

A new stationary source is subject to major NSR requirements if its potential to emit (PTE) a regulated NSR pollutant exceeds certain emission thresholds. If it exceeds the applicable threshold, the NSR regulations define it as a ''major stationary source.'' An existing major stationary source triggers major NSR permitting requirements when it undergoes a ''major modification,'' which occurs when a source undertakes a physical change or change in method of operation (*i.e.,* a ''project'') that would result in (1) a significant emissions increase from the project, and (2) a significant net emissions increase from the source. *See, e.g.,* 40 CFR 52.21(b)(2)(i) and 40 CFR 52.21(b)(52). Georgia Rule 391–3–1–.03(8)—*Permit Requirements* contains the State's NNSR permitting requirements and identifies the counties subject to those requirements.

Effective January 6, 1992, EPA designated 13 counties surrounding Atlanta, Georgia, as nonattainment for the 1-hour ozone NAAQS and classified

them as a ''serious'' nonattainment area (hereinafter referred to as the Atlanta 1-hour Ozone Area).[1] *See* 56 FR 56694 (November 6, 1991). Effective January 1, 2004, the Atlanta 1-hour Ozone Area was reclassified as a ''severe'' nonattainment area. *See* 68 FR 55469 (September 26, 2003). This classification requires, among other things, that a ''major source'' and a ''major stationary source'' be defined to include certain sources that emit or have the potential to emit 25 tons or more of nitrogen oxides (NO_X) or volatile organic compounds (VOC) and that emissions offsets apply at a ratio of at least 1.3 or 1.2:1 (depending on the criteria in CAA section 182(d)(2)).[2] EPA redesignated the Atlanta 1-hour Ozone Area to attainment for the 1-hour ozone NAAQS, effective June 14, 2005. *See* 70 FR 34660 (June 15, 2005). Effective June 15, 2005, EPA revoked the 1-hour ozone NAAQS. *See* 69 FR 23951 (April 30, 2004) and 70 FR 44470 (August 3, 2005).

Effective June 15, 2004, 20 counties surrounding Atlanta were designated as nonattainment and classified as a ''marginal'' nonattainment area for the 1997 8-hour ozone NAAQS (hereinafter referred to as the Atlanta 1997 8-hour Ozone Area).[3] *See* 69 FR 23858 (April 30, 2004). Effective April 7, 2008, the Atlanta 1997 8-hour Ozone Area was reclassified as a ''moderate'' nonattainment area. *See* 73 FR 12013 (March 6, 2008). This classification requires, among other things, that a ''major source'' and a ''major stationary source'' be defined to include certain sources that emit or have the potential to emit 100 tons or more of NO_X or VOC and that emissions offsets apply at a ratio of at least 1.15:1. The Atlanta 1997 8-hour Ozone Area was redesignated to attainment, effective January 1, 2014. *See* 78 FR 72040 (December 2, 2013). Effective April 6, 2015, EPA revoked the 1997 8-Hour Ozone NAAQS. *See* 80 FR 12264 (March 6, 2015).

Effective July 20, 2012, 15 counties surrounding Atlanta were designated as nonattainment and classified as a ''marginal'' nonattainment area for the 2008 8-hour ozone NAAQS (hereinafter referred to as the Atlanta 2008 8-hour Ozone Area).[4] *See* 77 FR 30088 (May 21, 2012). This classification requires, among other things, that a ''major source'' and a ''major stationary source'' be defined to include certain sources that emit or have the potential to emit 100 tons or more of NO_X or VOC and that emissions offsets apply at a ratio of at least 1.1:1. The Atlanta 2008 8-hour Ozone Area was redesignated to attainment, effective June 2, 2017. *See* 82 FR 25523 (June 2, 2017).

Approximately one year later, on June 4, 2018, EPA published a **Federal Register** notice announcing that seven counties surrounding Atlanta were designated as nonattainment and classified as a ''marginal'' nonattainment area for the 2015 8-hour ozone NAAQS (hereinafter referred to as the Atlanta 2015 8-hour Ozone Area).[5] *See* 83 FR 25776 (effective August 3, 2018). As discussed above, the ''marginal'' classification requires that a ''major source'' and a ''major stationary source'' be defined to include certain sources that emit or have the potential to emit 100 tons or more of NO_X or VOC and that emissions offsets apply at a ratio of at least 1.1:1.

Due to the redesignations identified above and the nonattainment designation for the 2015 8-hour ozone NAAQS, the ozone nonattainment area surrounding Atlanta now consists of seven counties—Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry. Via a letter dated July 2, 2018, GA EPD provided a SIP revision to EPA to modify the NNSR requirements in Rule 391–3–1–.03(8)—*Permit Requirements* as discussed below.[6] In this proposed action, EPA is proposing to approve the changes to Georgia's Rule 391–3–1-.03(8) because these changes are consistent with the CAA. EPA's analysis is provided below.

II. Analysis of State's Submittal

EPA is proposing to approve changes to NNSR permitting requirements in Rule 391–3–1–.03(8) that remove the NNSR provision specific to the counties that were part of the Atlanta 1-hour Ozone Area and remove references to that provision, and apply permitting requirements to certain electric generating units (EGUs) located in counties in the maintenance area for the 1997 8-hour ozone NAAQS.[7] Specifically, Georgia is removing Rule 391–3–1–.03(8)(c)(13)—*Additional Provisions for Ozone Non-Attainment Areas for Counties that were Formerly Part of the 1-hour Ozone Non-Attainment Area;* revising and renaming Rule 391–3–1–.03(8)(c)(14)—*Additional Provisions for Ozone Non-Attainment Areas for Counties that were Not Formerly Part of the 1-hour Ozone Non-Attainment Area;* revising Rule 391–3–1–.03(8)(c)(15)—*Additional Provisions for Electrical Generating Units Located in Areas Contributing to the Ambient Air Level of Ozone in the Metropolitan Atlanta Ozone Non-Attainment Area* and removing references to Rule 391–3–1–.03(8)(c)(13) located at Rule 391–3–1–.03(8)(c)(12)(iv) and Rules 391–3–1–.03(8)(g)(2)(i), (5)(i), and (6)(i). These changes have the effect of applying the NNSR permitting requirements of Rule 391–3–1–.03(8)(c)(14) to the counties located in the Atlanta 2015 8-hour Ozone Area and to the counties located in the maintenance area for the 2008 8-hour ozone NAAQS.

Rule 391–3–1–.03(8)(c)(13) applies ''severe'' ozone nonattainment area NNSR requirements to the counties formerly included in the Atlanta 1-hour Ozone Area. Among other things, Rule 391–3–1–.03(8)(c)(13) defines ''major source'' and ''major stationary source'' to include certain sources that emit or have the potential to emit at least 25 tons per year of VOC or NO_X; identifies the net emissions increase triggering the permitting requirement as a result of a physical or operational change at a major stationary source; and sets an emissions offset ratio of at least 1.3:1.

As mentioned above, EPA redesignated the Atlanta 1-hour Ozone Area to attainment on June 14, 2005 (70 FR 34660) and revoked the 1-hour standard on August 4, 2005 (70 FR 44470). EPA has also redesignated the Atlanta 1997 8-hour Ozone Area and Atlanta 2008 8-hour Ozone Area to attainment and revoked the 1997 8-hour

[1] The Atlanta 1-hour Ozone Area consisted of the following counties: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale. The 1-hour ozone NAAQS was set at 0.12 parts per million (ppm) with attainment defined when the expected number of days per calendar year, with maximum hourly average concentration greater than 0.12 ppm, is equal to or less than one.

[2] For ozone, the offset ratio is the ratio of the total emissions reductions of NOx or VOCs to the total increased emissions of those pollutants.

[3] The Atlanta 1997 8-hour Ozone Area consisted of the following counties: Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding, and Walton. The 1997 8-hour ozone NAAQS was set at 0.08 ppm based on an annual fourth-highest daily maximum 8-hour average concentration averaged over three years.

[4] The Atlanta 2008 8-hour Ozone Area consisted of the following counties: Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, and Rockdale. The 2008 8-hour ozone NAAQS is set at 0.075 ppm based on an annual fourth-highest daily maximum 8-hour average concentration averaged over three years.

[5] The Atlanta 2015 8-hour Ozone Area consists of the following counties: Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry. The 2015 8-hour ozone NAAQS is set at 0.070 ppm based on an annual fourth-highest daily maximum 8-hour average concentration averaged over three years.

[6] EPA received the submittal on July 6, 2018. Georgia's cover letter also requested revision to Rule 391–3–1–.03(10)—*Title V Operating Permits*. However, EPA is not acting on that revision because Rule 391–3–1-.03(10) is not part of the SIP.

[7] An area redesignated to attainment is referred to as a maintenance area.

ozone standard. EPA is proposing to approve the removal of Rule 391–3–1–.03(8)(c)(13), thereby eliminating ''severe'' ozone nonattainment area NNSR requirements for the counties formerly included in the Atlanta 1-hour Ozone Area.

Rule 391–3–1–.03(8)(c)(14), among other things, defines ''major source'' and ''major stationary source'' to include certain sources that emit or have the potential to emit at least 100 tons per year of VOC or NO_X; identifies the net emissions increase triggering the permitting requirement as a result of a physical or operational change at a major stationary source; and sets an emissions offset ratio of at least 1.15:1 (*i.e.,* the rule applies ''moderate'' ozone nonattainment area NNSR requirements to the counties listed therein). The revised rule adds the 13 counties from Rule 391–3–1–.03(8)(c)(13), (*i.e.,* the counties that comprised the Atlanta 1-hour Ozone Area) and removes five counties (Barrow, Carroll, Hall, Spalding, and Walton) so that Rule 391–3–1–.03(8)(c)(14) applies to all of the counties in the 2008 ozone NAAQS maintenance area and the Atlanta 2015 8-hour Ozone Area.[8] The revision also changes the title of the rule to ''Additional Provisions for Ozone Non-Attainment Areas.''

The ''Additional Provisions for Electrical Generating Units Located in Areas Contributing to the Ambient Air Level of Ozone in the Metropolitan Atlanta Ozone Non-Attainment Area'' at Rule 391–3–1–.03(8)(c)(15), among other things, define ''major source'' and ''major stationary source'' to include certain sources that emit or have the potential to emit at least 100 tons per year of VOC or NO_X; identify the net emissions increase threshold triggering the permitting requirement as a result of a physical or operational change at a major stationary source; require Best Available Control Technology for the units subject to the permitting requirement; and set an emissions offset ratio of at least 1.1:1. The revision adds the five counties (Barrow, Carroll, Hall, Spalding, and Walton) removed from Rule 391–3–1–.03(8)(c)(14).[9] None of the counties listed in Rule 391–3–1–.03(8)(c)(15) are part of the Atlanta 2015 8-hour Ozone Area or the maintenance area for the 2008 ozone NAAQS.

Lastly, the submission requests removal of references to Rule 391–3–1–.03(8)(c)(13) at Rule 391–3–1–.03(8)(c)(12)(iv) and Rules 391–3–1–.03(8)(g)(2)(i), (5)(i), and (6)(i).

EPA is proposing to approve the changes described in Georgia's July 2, 2018, SIP revision because it is no longer necessary for the State to retain either the NNSR provisions developed to address the former severe nonattainment area for the 1-hour ozone NAAQS or the NNSR program for the five counties removed from Rule 391–3–1–.03(8)(c)(14) that are part of the maintenance area for the 1997 ozone NAAQS and are designated as attainment for all ozone NAAQS. These changes are acceptable under the ozone implementation rules for the 1997 and 2008 ozone NAAQS because the anti-backsliding provisions contained therein do not apply.[10] The changes are also acceptable under CAA section 110(l), which prevents EPA from approving a SIP revision that would interfere with any applicable requirements concerning attainment and reasonable further progress or any other applicable CAA requirement, for the following reasons.[11] First, NSR only applies to new sources and to existing sources that undergo a physical change or change in the method of operation (*i.e.,* it is a prospective permitting program). Therefore, the conditions in the NNSR permits issued in the counties within the former Atlanta ozone nonattainment areas, along with any associated emissions offsets, will remain in effect. Second, EPA's NSR permitting rules and Georgia's SIP-approved regulations implementing those requirements prohibit the State from issuing permits to new or modified stationary sources if such construction or modification would interfere with attainment or maintenance of any NAAQS. 40 CFR 51.160 requires each state's SIP to contain enforceable procedures that prevent the permitting of new sources or modifications that would interfere with the attainment or maintenance of a NAAQS, and Georgia's SIP contains such a provision at Rule 391–3–1–.03(8)(a).[12] These two rules are applicable to all NSR programs—minor NSR, PSD, and NNSR. Third, new major sources and major modifications covered under the NNSR program in Rule 391–3–1–.03(8)(c)(14) that are located in counties formerly within the Atlanta 1-hour Ozone Area must still obtain emissions offsets at an emissions reduction to emissions increase ratio greater than one, thereby ensuring that any future new sources and major modifications will result in a net decrease in ozone precursor emissions.

III. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Georgia Rule 391–3–1–.03(8)—*Permit Requirements,* which revises the State's permit rules, state effective June 18, 2018. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve the aforementioned changes to the Georgia SIP, submitted in a letter dated July 2, 2018, because they are consistent with the CAA and federal regulations.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations.

[8] The revised rule applies to the following counties: Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, and Rockdale.

[9] The revised rule applies to the following counties: Banks, Barrow, Butts, Carroll, Chattooga, Clarke, Dawson, Floyd, Gordon, Hall, Haralson, Heard, Jackson, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Oconee, Pickens, Pike, Polk, Putnam, Spalding, Troup, Upson, and Walton.

[10] *See* 40 CFR 51.905 and 51.1105, respectively. As discussed above, EPA redesignated the Atlanta 1-hour Ozone Area to attainment and subsequently revoked the 1-hour standard; redesignated the Atlanta 1997 8-hour Ozone Area to attainment and subsequently revoked the 1997 8-hour standard; and redesignated the Atlanta 2008 8-hour Ozone Area to attainment.

[11] EPA also evaluated the applicability of CAA section 193 to the proposed changes. Section 193 is a general savings clause stating that no control requirement in effect before November 15, 1990, in any nonattainment area for any air pollutant may be modified after November 15, 1990 in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant. Section 193 is not applicable to this proposed action because Georgia first adopted the rules at issue after November 15, 1990.

[12] The SIP-approved version of Rule 391–3–1–.03(8)(a) states that ''Each application for a permit to construct a new stationary source or modify an existing stationary source shall be subjected to a preconstruction or premodification review by the Director [of the Division of Environmental Protection or his designee]. The Director shall determine prior to issuing any permit that the proposed construction or modification will not cause or contribute to a failure to attain (as expeditiously as practicable) or maintain any ambient air quality standard, a significant deterioration of air quality, or a violation of any applicable emission limitation or standard of performance or other requirement under the [Georgia Air Quality] Act or this Chapter (391–3–1). Each person applying to the Director for a permit to construct a new stationary source or modify an existing stationary source shall provide information required by the Director to make such determination.''

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Volatile organic compounds, Nitrogen Oxides.

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

Dated: August 27, 2019.

Mary S. Walker,

Regional Administrator, Region 4.

[FR Doc. 2019–19307 Filed 9–6–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2018–0510; FRL–9999–43–Region 4]

Air Plan Approval and Designation of Areas; FL; Source-Specific SO_2 Permit Limits & Redesignation of Hillsborough-Polk 2010 1-Hr SO_2 Nonattainment Area to Attainment & Mulberry Unclassifiable Area to Attainment/Unclassifiable

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve state implementation plan (SIP) revisions and two redesignation requests provided by the State of Florida, through the Florida Department of Environmental Protection (FDEP), related to the 2010 1-hour sulfur dioxide (SO_2) national ambient air quality standard (NAAQS or standard). Specifically, EPA is proposing to approve a December 1, 2017, SIP revision (as supplemented through a February 15, 2019 draft SIP revision discussed below) that includes SO_2 multi-unit permit limits and associated compliance and monitoring parameters for Mosaic Fertilizer LLC's New Wales facility (Mosaic New Wales) and Bartow facility (Mosaic Bartow), both located in Polk County, Florida. The December 1, 2017, SIP revision also includes a modeling analysis to demonstrate that the Hillsborough-Polk SO_2 nonattainment area (hereinafter referred to as the ''Hillsborough-Polk Area'') attains the SO_2 NAAQS with these permit limits. EPA is also proposing to approve, through parallel processing, a draft February 15, 2019, request to redesignate the Hillsborough-Polk Area to attainment for the 1-hour SO_2 NAAQS and associated SIP revision containing the State's plan for maintaining attainment of the standard in the Area. As mentioned above, a draft February 15, 2019, SIP revision also revises the modeling analysis in the 2017 SIP revision. Additionally, the draft February 15, 2019, SIP revisions contain a base-year emissions inventory for the Area and certify that the Area meets nonattainment new source review (NNSR) requirements. EPA is proposing to approve the draft February 15, 2019, SIP revisions through parallel processing. In addition, EPA is proposing to approve, through parallel processing, a draft February 15, 2019, request to redesignate the Mulberry Unclassifiable Area (hereinafter referred to as the ''Mulberry Area'') to attainment/unclassifiable for the 2010 1-hour SO_2 NAAQS.

DATES: Comments must be received on or before October 9, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2018–0510 at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Madolyn Sanchez, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Sanchez may be reached by phone at (404) 562–9644 or via electronic mail at *sanchez.madolyn@epa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What is parallel processing?
II. What are the actions EPA is proposing to take?
III. Background

IV. What are the criteria for redesignation?
V. Why is EPA proposing these actions?
VI. What is EPA's analysis of Florida's source-specific SO_2 permit limits?
VII. What actions are being proposed for the Hillsborough-Polk Area?
VIII. What is EPA's analysis of the redesignation request for the Mulberry Area?
IX. What is the effect of EPA's proposed actions?
X. Incorporation by Reference
XI. Proposed Actions
XII. Statutory and Executive Order Reviews

I. What is parallel processing?

Parallel processing refers to a process that utilizes concurrent state and Federal proposed rulemaking actions. Generally, the state submits a copy of the proposed regulation or other revisions to EPA before conducting its public hearing and completing its public comment process under state law. EPA reviews this proposed state action and prepares a notice of proposed rulemaking under Federal law. In some cases, EPA's notice of proposed rulemaking is published in the **Federal Register** during the same time frame that the state is holding its public hearing and conducting its public comment process. The state and EPA then provide for concurrent public comment periods on both the state action and Federal action. If, after completing its public comment process and after EPA's public comment process has run, the state changes its final submittal from the proposed submittal, EPA evaluates those changes and decides whether to publish another notice of proposed rulemaking in light of those changes or to proceed to taking final action on its proposed action and describe the state's changes in its final rulemaking action. Any final rulemaking action by EPA will occur only after the final submittal has been adopted by the state and formally provided to EPA.

In the instant case, however, EPA's and Florida's processes have not been perfectly concurrent. The State submitted its first SIP revision for the Area to EPA in December 2017. Then, on February 15, 2019, Florida submitted proposed SIP revisions related to the 2010 1-hour SO_2 standard for the Hillsborough-Polk Area, including an amendment to the December 2017, SIP revision, along with proposed requests to redesignate the Hillsborough-Polk and Mulberry Areas. These submittals were noticed for public comment by the State on February 15, 2019, and have not yet been submitted in final form. The State's public comment period closed on March 18, 2019. The State only received comments from EPA which are provided in the docket for this proposed rulemaking. Florida requested that EPA parallel process these proposed submittals while the State waits for the multi-unit permit limits to become state-enforceable on August 31, 2019. The State's intention is to submit its final SIP revisions and redesignation requests in early September 2019. After Florida submits these formal SIP revisions and requests (including responses to EPA's comments), EPA will evaluate the submittals. If the State changes the formal submittals from the proposed submittals, EPA will evaluate those changes for significance. If EPA finds any such changes to be significant, then the Agency intends to determine whether to re-propose the actions based upon the revised submissions or to proceed to take final action on the submittals as changed by the State. Although EPA was unable to have a concurrent public comment process with the State, Florida's request for parallel processing allows EPA to begin to take action on the State's proposed submittals in advance of formal, final submissions.

II. What are the actions EPA is proposing to take?

EPA is proposing to take the following seven separate but related actions: (1) Approve and incorporate the SO_2 permit limits and associated compliance and monitoring parameters for Mosaic New Wales and Mosaic Bartow into the SIP; (2) approve the base-year emissions inventory pursuant to Clean Air Act (CAA or Act) section 172(c)(3) for the Hillsborough-Polk Area and incorporate it into the SIP; (3) concur with Florida's certification pursuant to CAA section 172(c)(5) that its existing NNSR requirements apply to the Hillsborough-Polk Area; (4) determine that the air quality modeling submitted by the State demonstrates that the Hillsborough-Polk Area will have attained the 2010 SO_2 NAAQS as a result of compliance with the multi-unit permit limits at Mosaic New Wales and Mosaic Bartow; (5) approve Florida's plan for maintaining the 2010 1-hour SO_2 NAAQS in the Hillsborough-Polk Area through 2032 and incorporate it into the SIP pursuant to section 175A of the CAA; (6) redesignate the Hillsborough-Polk Area to attainment for the 2010 1-hour SO_2 NAAQS; and (7) redesignate the Mulberry Area to attainment/unclassifiable for the 2010 1-hour SO_2 NAAQS based on air quality modeling. Because attainment of the SO_2 NAAQS is dependent on making the multi-unit permit limits and associated compliance and monitoring parameters for Mosaic New Wales and Mosaic Bartow permanent and enforceable measures, EPA cannot take final action on items 4–7, above, unless it finalizes its proposal to approve and incorporate these limits and parameters into the SIP.[1]

The Hillsborough-Polk Area is comprised of the portion of Hillsborough and Polk Counties encompassed by the polygon with the vertices using Universal Transverse Mercator (UTM) coordinates in UTM zone 17 with datum North American Datum 83 (NAD83) as follows: 390,500 E, 3,073,500 N; 390,500 E, 3,083,500 N; 400,500 E, 3,083,500 N; 400,500 E, 3,073,500 N. The Hillsborough-Polk Area contains one major point source for SO_2 emissions—Mosaic New Wales.

The Mulberry Area is that portion of Hillsborough and Polk Counties encompassed by the polygon with the vertices using UTM coordinates in UTM zone 17 with datum NAD83 starting with the Northwest Corner and proceeding to the Northeast as follows: 390,500 E, 3,083,500 N; 410,700 E, 3,091,600 N; 412,900 E, 3,089,800 N; 412,900 E, 3,084,600 N; 400,500 E, 3,073,50 N; 400,500 E, 3,083,500 N. The Mulberry Area is directly adjacent to the Hillsborough-Polk Area and contains one major point source for SO_2 emissions—Mosaic Bartow. In addition, there are two major SO_2 point sources located within 10 kilometers (km) of the Hillsborough-Polk Area and the Mulberry Area—Mosaic's South Pierce facility and Tampa Electric Company's (TECO's) Polk Power Station.

III. Background

On June 2, 2010, EPA revised the primary SO_2 NAAQS, establishing a new 1-hour SO_2 standard of 75 parts per billion (ppb). *See* 75 FR 35520 (June 22, 2010). Under EPA's regulations at 40 CFR part 50, the 2010 1-hour SO_2 NAAQS is met at a monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations is less than or equal to 75 ppb (based on the rounding convention in 40 CFR part 50, appendix T). *See* 40 CFR 50.17. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. A year meets

[1] FDEP has committed to submit the redesignation requests and SIP revisions soon after the SO_2 permit limits become state-enforceable on August 31, 2019. As described above, EPA will not take final action on its proposals associated with the February 15, 2019, drafts until after these redesignation requests and SIP revisions are formally submitted to EPA in early September 2019. As a part of the final SIP submittals, Florida will provide emissions data to show compliance with the SO_2 permit limits that are the subject of this proposed rulemaking.

data completeness requirements when all four quarters are complete, and a quarter is complete when at least 75 percent of the sampling days for each quarter have complete data. A sampling day has complete data if 75 percent of the hourly concentration values, including state-flagged data affected by exceptional events which have been approved for exclusion by the Administrator, are reported.[2] The 2010 1-hour SO_2 standard is violated at an ambient air quality monitoring site (or in the case of dispersion modeling, at an ambient air quality receptor location) when the 3-year average of the annual 99th percentile of the daily maximum 1-hour average concentrations exceeds 75 ppb, as determined in accordance with Appendix T of 40 CFR part 50.

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the NAAQS. Effective on April 9, 2018, EPA designated the Hillsborough-Polk Area as nonattainment based on air dispersion modeling and designated the Mulberry Area as unclassifiable for the 2010 1-hour SO_2 NAAQS.[3] *See* 83 FR 1098 (January 9, 2018). Under the CAA, SO_2 nonattainment areas must attain the NAAQS as expeditiously as practicable but not later than five years after the April 9, 2018, effective date of the designation. *See* CAA section 192(a). Therefore, the Hillsborough-Polk Area's applicable attainment date is no later than April 9, 2023.

EPA's nonattainment designation for the Hillsborough-Polk Area triggered an obligation for Florida to develop a nonattainment area SIP revision addressing certain requirements under CAA title I, part D, subpart 1 (hereinafter ''Subpart 1''), and to submit that SIP revision to EPA in accordance with the deadlines in title I, part D, subpart 5 (hereinafter ''Subpart 5'').[4] Subpart 1 contains the general requirements for nonattainment areas for criteria pollutants, including requirements to develop a SIP that provides for the implementation of reasonably available control measures (RACM), requires reasonable further progress (RFP), includes base-year and attainment-year emissions inventories, a SIP-approved NNSR permitting program that accounts for growth in the area, enforceable emission limitations and other such control measures, and provides for the implementation of contingency measures. This SIP revision is due within 18 months following the April 9, 2018, effective date of designation (*i.e.,* October 9, 2019).[5] *See* CAA section 191(a).

IV. What are the criteria for redesignation?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation provided that the following criteria are met: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable federal air pollutant control regulations, and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) the state containing such area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992 (57 FR 13498), EPA provided guidance on redesignations in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereinafter referred to as the ''Calcagni Memorandum'');
2. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992 (hereinafter referred to as the ''1992 Calcagni Memorandum'');
3. ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994 (hereinafter referred to as the ''Nichols Memorandum''); and
4. ''Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions,'' Memorandum from Stephen D. Page, April 23, 2014 (hereinafter referred to as the ''SO_2 Nonattainment Area Guidance'').

EPA's SO_2 Nonattainment Area Guidance discusses the CAA requirements that air agencies need to address when implementing the 2010 SO_2 NAAQS in areas designated as nonattainment for the standard. The guidance includes recommendations for air agencies to consider as they develop SIPs to satisfy the requirements of sections 110, 172, 175A, 191, and 192 of the CAA to show future attainment and maintenance of the 2010 SO_2 NAAQS. Additionally, the SO_2 Nonattainment Area Guidance provides recommendations for air agencies to consider as they develop redesignation requests and maintenance plans to satisfy the requirements of sections 107(d)(3)(E) and 175A.

V. Why is EPA proposing these actions?

EPA has evaluated and is proposing to approve the base-year nonattainment emissions inventory and concurs with FDEP's certification that its existing SIP-approved NNSR permitting program applies to the Hillsborough-Polk Area because they satisfy the requirements of CAA sections 172(c)(3) and 172(c)(5), respectively. As discussed in greater detail in Section VI of this notice, EPA is also proposing to approve and incorporate the SO_2 permit limits and associated compliance and monitoring parameters for Mosaic New Wales and Mosaic Bartow into the SIP. In addition, EPA is proposing to determine that the air quality modeling submitted by the State demonstrates that the Hillsborough-Polk Area will have attained the 2010 SO_2 NAAQS as a result of compliance with the permit limits at Mosaic New Wales and Mosaic Bartow and that the Area will meet the requirements for redesignation as set forth in section 107(d)(3)(E), including the maintenance plan requirements under section 175A of the CAA, provided that the state submits a final SIP consistent with that outlined above, including the permit limits, parameters, and related information, and EPA approves the SIP.

Also, as a result of the compliance with the multi-unit permit limits at Mosaic New Wales and Mosaic Bartow, EPA proposes to determine that the Mulberry Area will have attained the 1-hour SO_2 NAAQS and thus will meet

[2] *See* 40 CFR part 50, appendix T, section 3(b).

[3] EPA designated the Mulberry Area as unclassifiable due to the uncertainty regarding possible contribution from Mosaic Bartow to the modeled violations in the Hillsborough-Polk Area. *See* Chapter 9 of the Technical Support Document for the Round 3 Designations for the 2010 1-Hour SO_2 NAAQS located in the docket for the designation at Docket ID No. EPA–HQ–OAR–2017–0003–0635.

[4] No requirements were triggered as a result of the unclassifiable designation for the Mulberry Area.

[5] If EPA redesignates the Hillsborough-Polk Area to attainment, a nonattainment SIP revision will not be required.

the requirements for redesignation from unclassifiable to attainment/unclassifiable.

VI. What is EPA's analysis of Florida's source-specific SO_2 permit limits?

Florida's December 1, 2017, source-specific SIP revision includes SO_2 multi-unit permit limits and associated compliance and monitoring provisions from air construction permits for Mosaic New Wales (Permit No. 1050059–106–AC) and Mosaic Bartow (Permit No. 1050046–050–AC). The SIP revision also includes modeling to demonstrate that the Hillsborough-Polk Area will attain the SO_2 NAAQS as a result of compliance with these multi-unit permit limits. Florida's February 15, 2019, draft SIP submittal contains changes to this modeling and administrative corrections to the aforementioned permits.

Mosaic New Wales and Mosaic Bartow are phosphate fertilizer manufacturing plants that employ a process of reacting phosphate rock with sulfuric acid to produce phosphoric acid, which is then converted into several different fertilizer products and animal feed ingredients. The sulfuric acid needed for the process is produced by sulfuric acid plants (SAPs), which are the largest SO_2 emitting units at these sites. Both facilities are sulfur burning, double conversion, and double absorption plants of Leonard-Monsanto design.[6] The SAPs burn sulfur with dried atmospheric oxygen to produce SO_2, which is catalytically oxidized to sulfur trioxide (SO_3), which is then absorbed in sulfuric acid.

To reduce SO_2 emissions from the SAPs, Mosaic has replaced the vanadium catalysts with more efficient catalysts to enable Mosaic New Wales and Mosaic Bartow to meet the new SO_2 permit limits. Mosaic Bartow and Mosaic New Wales began installation of the catalyst replacements in 2016 and 2017, respectively, and completed installation in April 2019.[7] The new catalysts allow for more SO_2 to be captured for process purposes rather than being emitted into the atmosphere.

On October 30, 2017, FDEP issued Permit No. 1050059–106–AC for Mosaic New Wales requiring compliance with a SO_2 multi-unit permit limit of 1,090 pounds per hour (lb/hr) across all five SAPs (Nos. 1 through 5) based on a 24-hour block average and with associated specific compliance and monitoring provisions. On July 3, 2017, FDEP issued Permit No. 1050046–050–AC for Mosaic Bartow requiring compliance with an SO_2 multi-unit permit limits of 1,100 lb/hr across all three SAPs (No. 4, No. 6 and No. 5) based on a 24-hour block average and with associated compliance and monitoring provisions. Mosaic is required to comply with these permit conditions no later than August 31, 2019.[8] The construction permits impose the new limits for scenarios where any number of units are operating at each respective facility while retaining the current individual unit limits as shown in Tables 1 and 2.

TABLE 1—MOSAIC NEW WALES SO_2 SOURCE CHANGES

Source	SO_2 permit limits (lb/hr)	
	Individual (not changing)	New 5-unit *
SAP1	496	Combined emissions cannot exceed 1,090.
SAP2	496	
SAP3	496	
SAP4	483.3	
SAP5	483.3	

* SO_2 permit limit is a 24-hour block average.

TABLE 2—MOSAIC BARTOW SO_2 SOURCE CHANGES

Source	SO_2 permit limits (lb/hr)	
	Individual (not changing)	New 3-unit *
SAP4	433.3	Combined emissions cannot exceed 1,100.
SAP5	433.3	
SAP6	433.3	

* SO_2 permit limit is a 24-hour block average.

The potential to emit for SAPs 1–5 at Mosaic New Wales and SAPs 4–6 at Mosaic Bartow was previously 10,750 tons per year (tpy) and 5,694 tpy, respectively. With the new multi-unit permit limits implemented at Mosaic New Wales and Mosaic Bartow, FDEP expects the potential to emit to be 4,774 tpy and 4,818 tpy, respectively. This is approximately a 42-percent drop in total allowable emissions for both facilities, combined. At maximum production, with all SAPs in operation, overall SO_2 emissions are expected to be reduced by approximately 5,930 tpy at Mosaic New Wales and 876 tpy at Mosaic Bartow. FDEP projects that actual SO_2 emissions will decrease by 36 percent from 2016 to 2020.

On January 11, 2019, FDEP issued Administrative Permit Corrections to

[6] A double conversion, double absorption plant efficiently converts SO_2 to SO_3, then SO_3 reacts in a mixture of water and sulfuric acid (H_2SO_4) to produce more H_2SO_4. In a double absorption system, the conversion efficiency from SO_2 to SO_3 is at least 99.7 percent.

[7] *See* the May 23, 2019, email from Mosaic Fertilizer, LLC to EPA Region 4 Air Planning Implementation Branch, Air Regulatory Management Section and Florida Department of Environmental Protection, Division of Air Resource Management located in the docket for this proposed rulemaking. FDEP required Mosaic to install these catalysts through Permit No. 1050059–101–AC (Mosaic New Wales) and No. 1050046–050–AC (Mosaic Bartow).

[8] FDEP incorporated these permit limits into Title V Permit No. 1050059–107–AV (Mosaic New Wales) and No. 1050046–053–AV (Mosaic Bartow).

the air construction permits identified above. These corrections are contained in Permit No. 1050059–114–AC for Mosaic New Wales and Permit No. 1050046–063–AC for Mosaic Bartow and do not modify the multi-unit permit limits or the associated compliance and monitoring provisions. The notices associated with these permits state that the corrections merely remove unnecessary and confusing language from the permit provisions that contain the emissions caps.[9] Florida's February 15, 2019, draft SIP revisions ask EPA to incorporate the corrections from Permit Nos. 1050059–114–AC and 050046–063–AC into the SIP.

On March 22, 2019, Florida submitted a letter to EPA explaining the administrative corrections and clarifying which permit conditions that it would like EPA to incorporate into the SIP.[10] FDEP is requesting that EPA incorporate the following conditions from Permit Nos. 10500046–106–AC and 1050046–050–AC: [11] (1) Section III, Subsection A, Specific Condition 3 (as corrected by Permit Nos. 1050059–114–AC and Permit No. 1050046–063–AC)—establishing the five-unit permit limit of 1,090 lb/hr for Mosaic New Wales and the three-unit permit limit of 1,100 lb/hr for Mosaic Bartow, each based on 24-hour block average, and applicable during all periods of operation; [12] (2) Section III, Subsection A Specific Condition 4—requiring the facilities to use certified SO_2 continuous emissions monitoring system (CEMS) data to demonstrate initial compliance with the new SO_2 permit limit; and (3) Section III, Subsection A, Specific Condition 5—requiring the facilities to keep records of the initial compliance demonstration that include the SO_2 CEMS data and sulfuric acid production rate (in tons per hour) during the demonstration.

The Mosaic New Wales and Mosaic Bartow air construction permits include specific conditions regarding initial compliance with the SO_2 permit limits using CEMS. Florida's SIP-approved regulations for SAPs, at Rule 62–296.402, Florida Administrative Code (F.A.C.), require the owner or operator of a SAP to install and operate CEMS according to appendix B of 40 CFR part 60, and Chapter 62–297, F.A.C., which specifies how stationary sources demonstrate compliance with the applicable permit limits.[13] These applicable requirements require compliance with the permit limits on an ongoing basis. For each SAP at each source, a CEMS will be used to determine compliance with the 24-hour average permit limit for SO_2. The CEMS shall be calibrated, maintained and operated as specified in 40 CFR 60.84.

The December 1, 2017, SIP revision includes an air dispersion modeling analysis to show attainment of the 2010 SO_2 NAAQS in the Hillsborough-Polk Area. The modeling used 1-hour emission rates calculated from final multi-unit permit limits of 1,090 lb/hr and 1,100 lb/hr for New Wales and Bartow, respectively, using adjustment factors derived following the procedures in EPA's SO_2 Nonattainment Area Guidance. Florida's draft February 15, 2019, SIP revision updated this modeling. FDEP's modeling complied with all applicable EPA rules and guidance, including *Appendix W to 40 CFR part 51: The Guideline on Air Quality Models* (Appendix W) and the *SO_2 NAAQS Designations Modeling Technical Assistance Document.*[14] For more information on the modeling analysis, see section VII.C of this notice and the Air Modeling Technical Support Document (TSD).[15] For details on how Florida established the 24-hour multi-unit SO_2 permit limits, see the longer term averaging (LTA) TSD.[16] EPA included both TSDs in the docket for this proposing rulemaking.

Based on a review of Florida's December 1, 2017, SIP revision, as modified through its February 15, 2019, draft SIP revision, EPA believes that the 24-hour block average SO_2 multi-unit permit limits described above provide an appropriate alternative to establishing a 1-hour average permit limit for each unit at Mosaic New Wales and Mosaic Bartow. The State has used a suitable database and has derived adjustment factors that yielded permit limits that have comparable stringency to the 1-hour average limits that would otherwise have been necessary to provide for attainment. While the 24-hour block average allows for occasions in which emissions may be higher than the level that would be allowed with the 1-hour limit, the State's caps compensate by requiring average emissions to be lower than the level that would otherwise have been required by 1-hour average limits. For more information on how Florida established the SO_2 permit limits, please refer to the LTA discussion presented in TSD. For reasons discussed in the LTA TSD and explained in more detail in EPA's SO_2 Nonattainment Area Guidance, EPA believes that appropriately set longer term average limits provide a reasonable basis by which permit limits may provide for attainment. Based on its review of this information as well as the information in the State's 2017 and 2019 SIP revisions, EPA is proposing to find that the 24-hour average limits for Mosaic New Wales and Mosaic Bartow provide for attainment of the SO_2 standard.

VII. What actions are being proposed for the Hillsborough-Polk Area?

Regarding the Hillsborough-Polk Area and in accordance with the CAA, EPA proposes to: (1) Approve and incorporate the SO_2 permit limits and associated compliance and monitoring parameters for Mosaic New Wales and Bartow into the SIP; (2) approve the base-year emissions inventory pursuant to Clean Air Act (CAA or Act) section 172(c)(3) for the Hillsborough-Polk Area and incorporate it into the SIP; (3) concur with Florida's certification pursuant to CAA section 172(c)(5) that its existing NNSR requirements apply to the Hillsborough-Polk Area; (4) determine that the air quality modeling submitted by the State demonstrates that the Hillsborough-Polk Area will have attained the 2010 SO_2 NAAQS as a result of compliance with the multi-unit permit limits at Mosaic New Wales and Bartow; (5) approve Florida's plan for maintaining the 2010 1-hour SO_2

[9] The Administrative Permit Corrections and associated notices are included in Appendix C and Appendix H of Florida's February 15, 2019 draft SIP revisions contained in the docket for this proposed rulemaking. The corrections remove the phrase ''Any requested revisions to this emissions limit requires air dispersion modeling review and written approval from the Department's Meteorology and Air Modeling Section in the Office of Business Planning to confirm SO_2 NAAQS compliance'' from the provisions establishing the multi-unit permit limits.

[10] *See* Florida's March 22, 2019, clarification letter contained in the docket for this proposed rulemaking.

[11] The permit condition numbers are the same for each permit.

[12] Permit condition Section III, Subsection A, Specific Condition 3 requires compliance with the emissions caps within the same 24-hour block averaging period (6:00 a.m. to 6:00 a.m.) and in scenarios when any combination of any number of the SAPs are not in operation and when any number of the SAPs are in operation. *See* Appendices B, C, G, and H of Florida's February 19, 2019 draft redesignation SIP submission in the docket for this proposed rulemaking.

[13] *See* Florida's March 22, 2019 clarification letter in the docket for this proposal action.

[14] SO_2 National Ambient Air Quality Standards Designations Modeling Technical Assistance Document, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, available at: *https://www.epa.gov/sites/production/files/2016-06/documents/so2modelingtad.pdf.*

[15] This TSD is entitled ''U.S. Environmental Protection Agency Technical Support Document (TSD) for the Air Quality Modeling Analysis Supporting the Proposed Redesignations for the Hillsborough—Polk and Mulberry, Florida Sulfur Dioxide (SO_2) Areas.''

[16] This TSD is entitled ''U.S. Environmental Protection Agency Technical Support Document (TSD) for the Longer Term Average Sulfur Dioxide (SO_2) Permit Limits for the Mosaic New Wales and Bartow Fertilizer Facilities.''

NAAQS in the Hillsborough-Polk Area through 2032 and incorporate it into the SIP pursuant to section 175A of the CAA; and (6) redesignate the Hillsborough-Polk Area to attainment for the 2010 1-hour SO_2 NAAQS. Because attainment of the SO_2 NAAQS is dependent on making the multi-unit permit limits and associated compliance and monitoring parameters for Mosaic New Wales and Bartow permanent and enforceable measures, EPA cannot take final action on items 4–7, above, unless it finalizes its proposal to approve and incorporate these caps and parameters into the SIP.

A. What is EPA's analysis of Florida's base-year inventory for the Hillsborough-Polk Area?

States are required under section 172(c)(3) of the CAA to develop comprehensive, accurate, and current inventories of actual emissions from all sources of the relevant pollutant or pollutants in the nonattainment area. These inventories provide a detailed accounting of all emissions and emission sources by precursor or pollutant. In addition, these inventories are used in air quality modeling to demonstrate that attainment of the NAAQS is as expeditious as practicable. The SO_2 Nonattainment Area Guidance states that the emissions inventory should be consistent with the Air Emissions Reporting Requirements (AERR) at subpart A to 40 CFR part 51.[17] The SO_2 Nonattainment Area Guidance notes that the base-year inventory should include all sources of SO_2 in the nonattainment area as well as any sources located outside the nonattainment area which may affect attainment in the area.

Florida elected to use 2017 as the base year. To develop the base-year emission inventory, Florida reviewed and compiled county-level actual SO_2 emissions for all source categories (*i.e.,* point, area, and mobile (nonroad and onroad)) in Hillsborough and Polk Counties and then utilized county and partial county nonattainment area population and land use data to determine estimated SO_2 emission inventories for sources of SO_2 in the Hillsborough-Polk Area. Emissions from Mosaic New Wales, the largest point source of SO_2 in the Area, as well as nearby Mosaic Bartow, a point source located outside of the Area, were included in the inventory.

Pursuant to Florida's SIP-approved regulations at Rule 62–210.370, F.A.C., paragraph (3), FDEP collects annual operating reports (AORs). Florida used these AORs to satisfy the AERR and to develop the base year inventory for actual emissions for point sources. FDEP utilized EPA's 2014 NEI, Version 2 to obtain estimates of the area and nonroad sources. For onroad mobile source emissions, FDEP utilized EPA's Motor Vehicle Emissions Simulator (MOVES2014). A more detailed discussion of the emissions inventory development for the Hillsborough-Polk Area can be found in Florida's February 15, 2019, draft SIP submittal.

Table 3, below, shows the level of emissions in the Hillsborough-Polk Area for the 2017 base year by emissions source category. The point source category includes 2017 emissions from the Mosaic New Wales and Mosaic Bartow AORs (6,877 tons and 4,001 tons, respectively). Area and nonroad emissions are based on 2014 NEI data for Hillsborough County and Polk County. Florida projected the 2014 emissions for the area and nonroad categories to 2017 based on the increase in the Hillsborough County and Polk County population from 2014 to 2017, and then allocated to the Hillsborough-Polk Area based on the Area's fraction of land area within each county. Florida estimated onroad emissions for the area using MOVES2014a and then allocated them to the Hillsborough-Polk Area based on the Area's fraction of land area within each county.

TABLE 3—2017 BASE-YEAR EMISSIONS INVENTORY FOR THE HILLSBOROUGH-POLK AREA

[tons]

Year	Point	Area	Nonroad	Onroad	Total
2017	10,888	16.42	0.31	1.34	10,906.07

EPA has evaluated Florida's 2017 base-year emissions inventory for the Hillsborough-Polk Area and has made the preliminary determination that this inventory was developed consistent with EPA's guidance. Therefore, pursuant to section 172(c)(3), EPA is proposing to approve Florida's 2017 base-year emissions inventory for the Hillsborough-Polk Area and incorporate it into the SIP.

B. What is EPA's analysis of Florida's NNSR SIP for the Hillsborough-Polk Area?

CAA section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in a nonattainment area. In its February 15, 2019, draft SIP revision, Florida certifies that it has a SIP-approved NNSR permitting program, outlined in Chapters 62–210 and 62–212, F.A.C., to address any new major stationary sources or source modifications in the Hillsborough-Polk Area. The SIP-approved program applies to nonattainment areas for all NAAQS, including the 2010 1-hour SO_2 standard. Florida also states that it is unaware of and does not anticipate any future development within the Area that would increase SO_2 emissions. EPA has previously approved Florida's SIP-approved NNSR program, including the NNSR regulation at 62–212.500, F.A.C.,[18] and is therefore proposing to concur with Florida's section 172(c)(5) certification that its program requires NNSR in the Hillsborough Polk Area for so long as the Area is designated nonattainment.[19]

C. What is EPA's analysis of the redesignation request and SIP revision for the Hillsborough-Polk Area?

The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Hillsborough-Polk Area in the following paragraphs.

[17] The AERR covers federal reporting requirements for states to submit emissions inventories for criteria pollutants to EPA's Emission Inventory System. EPA uses these submittals, along with other data sources, to build the National Emission Inventory (NEI).

[18] EPA last modified the SIP-approved version of this rule on June 27, 2008. *See* 73 FR 36435.

[19] As discussed in section VII.C.ii.A.2.a, below, EPA has a longstanding interpretation that because NNSR is replaced by Prevention of Significant Deterioration (PSD) permitting upon redesignation, nonattainment areas seeking redesignation to attainment need not have a fully approved part D NNSR program in order to be redesignated. *See* Nichols Memorandum. Nonetheless, EPA is proposing to concur with the State's certification.

i. Criterion (1)—The Administrator Determines That the Area Has Attained the NAAQS

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). As discussed in section VIII.A of the SO_2 Nonattainment Area Guidance, there are generally two components needed to support an attainment determination for SO_2, which should be considered interdependently.[20] The first component relies on air quality monitoring data. For SO_2, any available monitoring data would need to indicate that all monitors in the affected area are meeting the standard as stated in 40 CFR 50.17 using data analysis procedures specified in 40 CFR part 50, Appendix T. The second component relies on air quality modeling data. If there are no air quality monitors located in the affected area, or there are air quality monitors located in the area, but analyses show that none of the monitors are located in the area of maximum concentration,[21] then air quality dispersion modeling will generally be needed to estimate SO_2 concentrations in the area. Such dispersion modeling should be conducted to estimate SO_2 concentrations throughout the nonattainment area using actual emissions and meteorological information for the most recent three calendar years. However, EPA may also make determinations of attainment based on the modeling from the attainment demonstration [22] for the applicable SIP for the affected area, eliminating the need for separate actuals-based modeling to support a redesignation request. A demonstration that the control strategy in the SIP has been fully implemented (compliance records demonstrating that the control measures have been implemented as required by the approved SIP) would also be relevant for making the determination, and as noted above, Florida is providing emissions data to demonstrate compliance with the SO_2 permit limits in its final SIP submittal. Areas which were designated nonattainment based on modeling will generally not be redesignated to attainment unless an acceptable modeling analysis indicates attainment. *See* 1992 Calcagni Memorandum.

As discussed above, Florida's December 1, 2017, SIP revision, as modified through its February 15, 2019, draft SIP revision, contains a modeling analysis to demonstrate that the Area will attain the 2010 1-hour standard as a result of compliance with the comparably stringent 24-hour SO_2 emissions caps at Mosaic New Wales and Mosaic Bartow. When EPA designated the Hillsborough-Polk Area as a nonattainment area for the 2010 1-hour SO_2 NAAQS, EPA determined that Mosaic New Wales was the primary cause of the 2010 1-hour SO_2 NAAQS violations in the Hillsborough-Polk Area. However, Florida included nearby Mosaic Bartow in its modeling because it determined that emissions from Mosaic Bartow also had the potential to contribute to elevated concentrations within the Hillsborough-Polk Area.

Because there are no air quality monitors located in the Hillsborough-Polk Area, EPA's proposed approval of Florida's draft redesignation and maintenance plan SIP for the Hillsborough-Polk Area is based on this modeled demonstration and related information. Details regarding the modeling analysis are summarized in the following paragraphs. A more detailed discussion of FDEP's modeling, including changes in the February 19, 2019, draft SIP revision, can be found in EPA's Air Modeling TSD.

FDEP's modeling analysis was developed in accordance with EPA's Guideline on Air Quality Models (Modeling Guideline) [23] and the SO_2 Nonattainment Area Guidance, and was prepared using EPA's preferred dispersion modeling system—the American Meteorological Society/Environmental Protection Agency Regulatory Model (AERMOD)—consisting of the AERMOD (version 18081) model and multiple data input preprocessors as described below. FDEP used regulatory default options and the rural land use dispersion option in the AERMOD modeling.

The pre-processors AERMET (version 16216) and AERMINUTE (version 14337) were used to process five years (*i.e.,* 2012–2016) of 1-minute meteorological data from the Winter Haven Municipal Airport National Weather Service (NWS) surface level site, based on FDEP's land use classifications, in combination with twice daily upper-air meteorological information from the Ruskin, FL NWS station. The Winter Haven Municipal Airport is located approximately 38 km northwest from the Hillsborough-Polk Area.

The AERMOD pre-processor AERMAP (version 18081) was used to generate terrain inputs for the receptors, based on a digital elevation mapping database from the National Elevation Dataset developed by the U.S. Geological Survey. FDEP used AERSURFACE to generate direction-specific land-use surface characteristics for the modeling.

The stack heights used in the modeling meet the Good Engineering Practice stack height criteria, and the Building Profile Input Program for Plume Rise Model Enhancements preprocessor was used to generate direction-specific building downwash parameters. FDEP developed two overlapping Cartesian receptor grids to fully encompass the entire nonattainment area and the unclassifiable area, with 100-meter (m) spacing out to 2.5 km from Mosaic New Wales and Mosaic Bartow, 200 m spacing from 2.5 km to 5 km, and 500 m spacing from 5 km to 7.5 km from the facilities, to ensure maximum concentrations were captured in the analysis.

FDEP selected a background SO_2 concentration based on monitoring data from the Sydney monitor (AQS ID: 12–057–3002), for the period January 2014 to December 2016. The monitor is approximately 23 km from Mosaic New Wales and 31 km from Mosaic Bartow. The background concentration from this ambient air monitor is used to account for SO_2 impacts from all sources that are not specifically included in the AERMOD modeling analysis. The ambient monitoring data was obtained from the Florida Air Monitoring and Assessment System. Due to its close proximity to the modeled facilities, monitored concentrations at this station are strongly influenced by their emissions. As a result, and as allowed by EPA's Modeling Guideline, the data were filtered to remove measurements where the wind direction could transport pollutants from these facilities to the monitor. More specifically, the data were filtered to remove measurements where hourly wind directions were between 85° to 175°. FDEP elected to use a temporally

[20] SO_2 is primarily a localized, source-specific pollutant, and therefore, SO_2 control measures are, by definition, based on what is directly and quantifiably necessary to attain the NAAQS.

[21] *See* section VIII.A of the SO_2 Nonattainment Area Guidance.

[22] Florida submitted the modeling analysis for the Hillsborough-Polk and Mulberry Areas in support of its redesignation requests and as part of its SIP revision containing permit limits for Mosaic Bartow and Mosaic New Wales. Although this modeling analysis is not considered part of an ''attainment demonstration'' or ''nonattainment SIP'' pursuant to section 172 of the CAA, the portion of the SO_2 Nonattainment Area Guidance regarding the use of modeling summarized in this section of the notice is applicable given the similarities between the submitted analysis and a modeling analysis under a section 172 ''attainment demonstration.''

[23] *See* 40 CFR part 51 Appendix W (EPA's Guideline on Air Quality Models) (January 17, 2017) located at *https://www3.epa.gov/ttn/scram/appendix_w/2016/AppendixW_2017.pdf.*

varying approach, based on the 99th percentile monitored concentrations by hour of day and season or month. The resulting temporally varying background concentration ranged from 0.67–7.33 ppb.

The State used the emissions caps for each of the SO_2 emissions units at Mosaic New Wales and Mosaic Bartow in the modeling demonstration. As discussed in Section VI, FDEP's construction permits require Mosaic New Wales to comply with a 1,090 lb/hr SO_2 permit limit for its five SAPs and Mosaic Bartow to comply with a 1,100 lb/hr for its three SAPs, each on a 24-hour block average, no later than August 31, 2019. To determine the level of these permit limits, the State initially performed exploratory modeling, consisting of over 300 AERMOD modeling runs, to determine the CEVs for Mosaic New Wales and Mosaic Bartow on an hourly basis. This modeling was performed to determine the highest aggregate hourly emission rate that, regardless of its distribution among any combination of SAPs at the facilities, would result in modeled concentrations at or below the level of the 1-hour NAAQS (*i.e.,* the CEV). The analysis resulted in CEVs of 1,118 lb/hr and 1,163 lb/hr for Mosaic New Wales and Mosaic Bartow, respectively. Following the procedures in EPA's SO_2 Nonattainment Area Guidance, Florida calculated comparably stringent 24-hour emissions caps using adjustment factors calculated by the ratio of each source's historic 99th percentile one-hour average emissions rate to its 99th percentile longer-term average emissions rate, which resulted in 24-hour adjusted emission caps of 1,100 lb/hr for New Wales and 1,138 lb/hr for Bartow. The details of the adjustment factor calculation are provided in the LTA TSD for this action. To provide for a margin of safety in the final modeling demonstration, Florida slightly lowered the 24-hour adjusted emission caps to establish final multi-unit permit limits of 1,090 lb/hr and 1,100 lb/hr for New Wales and Bartow, respectively. For the final modeling run to show compliance with the NAAQS, Florida applied the adjustment factors to back-calculate 1-hour emission rates (1,108 lb/hr for New Wales and 1,124 lb/hr for Bartow) from the final 24-hour multi-unit permit limits of 1,090 lb/hr and 1,100 lb/hr for New Wales and Bartow, respectively.

Table 4 shows that the maximum modeled 99th percentile daily maximum 1-hour SO_2 concentration averaged across all five years of meteorological data (2012–2016) is less than or equal to the 2010 1-hour SO_2 NAAQS of 75 ppb using the in 1-hour equivalent emission rates.

TABLE 4—MAXIMUM MODELED 99TH PERCENTILE DAILY MAXIMUM 1-HOUR SO_2 IMPACTS IN THE HILLSBOROUGH-POLK AREA, MICROGRAMS PER CUBIC METER

Averaging time	Maximum predicted impact	Background	Total	SO_2 NAAQS
1-hour	186.94 (71.4 ppb)	7.84 (3 ppb)	194.74 (74.4 ppb)	196.4 (75 ppb).

The final modeling resulted in a highest predicted 99th percentile daily maximum 1-hour concentration of 74.4 ppb with no modeled violations of the 1-hour SO_2 NAAQS in ambient air locations in the Hillsborough-Polk Area or in the Mulberry Area. The details of the modeling are provided EPA's Air Modeling TSD for this action. EPA believes that the modeled demonstration described above is consistent with CAA requirements, EPA's Modeling Guideline, and the SO_2 Nonattainment Area Guidance. Therefore, EPA proposes to determine that the air quality modeling and related information that will be submitted by the State in its final submission (consistent with the current proposed SIP) demonstrates that the Hillsborough-Polk Area will have attained the 2010 1-hour SO_2 NAAQS as a result of compliance with the permit limits at Mosaic New Wales and Mosaic Bartow. EPA cannot take final action to determine that the Area has attained the NAAQS unless it receives the final SIP submittal containing that information and finalizes its proposal to approve and incorporate these permit limits, associated compliance and monitoring parameters, and other related information into the SIP.

ii. Criterion (2)—The Administrator Fully Approves the Applicable Implementation Plan for the Area Under Section 110(k); and Criterion (5)—Florida Has Met All Applicable Requirements Under Section 110 and Part D of Title I of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the state has a fully approved SIP under section 110(k) for the area (CAA section 107(d)(3)(E)(ii)). EPA proposes to find that Florida has met all applicable SIP requirements for the Hillsborough-Polk Area under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, EPA proposes to find that the Florida SIP satisfies the criterion that it meets applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v). Further, EPA proposes to determine that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these proposed determinations, EPA ascertained which requirements are applicable to the Area and, if applicable, that they are fully approved under section 110(k). SIPs must be fully approved only with respect to requirements that were applicable prior to submittal of the complete redesignation request.

A. The Hillsborough-Polk Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

1. General SIP Requirements

General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (NNSR permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent

sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, EPA believes that other section 110(a)(2) elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110(a)(2) and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.,* for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 2008); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001). Nonetheless, EPA has approved Florida's SIP revisions related to the section 110 requirements for the 2010 SO_2 NAAQS, with the exception of the interstate transport elements at section 110(a)(2)(D)(i)(I). *See* 81 FR 67179 (September 30, 2016).

2. Title I, Part D, Applicable SIP Requirements

Subpart 1 of part D, comprised of CAA sections 171–179B, sets forth the basic nonattainment requirements applicable to all nonattainment areas. All areas that were designated nonattainment for the SO_2 NAAQS were designated under Subpart 1 of the CAA in accordance with the deadlines in Subpart 5. For purposes of evaluating this redesignation request, the applicable Subpart 1 SIP requirements are contained in section 172(c)(1)–(9), section 176, and sections 191 and 192. A thorough discussion of the requirements contained in sections 172(c) can be found in the General Preamble for Implementation of Title I. *See* 57 FR 13498 (April 16, 1992).

a. Subpart 1 Section 172 Requirements

Section 172 requires states with nonattainment areas to submit plans providing for timely attainment and meeting a variety of other requirements. EPA's longstanding interpretation of the attainment-related nonattainment planning requirements of section 172 is that once an area is attaining the NAAQS, those requirements are not ''applicable'' for purposes of CAA section 107(d)(3)(E)(ii) and therefore need not be approved into the SIP before EPA can redesignate the area. In the 1992 General Preamble for Implementation of Title I, EPA set forth its interpretation of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard. *See* 57 FR 13498, 13564 (April 16, 1992). EPA noted that the requirements for RFP and other measures designed to provide for attainment do not apply in evaluating redesignation requests because those nonattainment planning requirements ''have no meaning'' for an area that is attaining the standard. *Id.* This interpretation was also set forth in the Calcagni Memo. EPA's understanding of section 172 also forms the basis of its Clean Data Policy, articulated with regard to the 2010 1-hour SO_2 NAAQS in the SO_2 Nonattainment Area Guidance, which suspends a state's obligation to submit most of the attainment planning requirements that would otherwise apply. Therefore, these section 172(c) nonattainment planning requirements are not applicable for purposes of evaluating Florida's redesignation request if EPA finalizes its proposal to incorporate the permit limits and associated compliance and monitoring parameters into the SIP once they become enforceable at the state level on August 31, 2019. Specifically, the RACT/RACM requirement under 172(c)(1); the RFP requirement under section 172(c)(2), which is defined as progress that must be made toward attainment; the requirement under section 172(c)(6) that the SIP contain control measures necessary to provide for attainment of the standard; and the requirement to submit section 172(c)(9) contingency measures, which are measures to be taken if the area fails to make reasonable further progress to attainment, would not be applicable.

Section 172(c)(3) requires submission for approval of a comprehensive, accurate, and current inventory of actual emissions. As discussed in Section VII.A, EPA is proposing to approve Florida's base-year emissions inventory for the Hillsborough-Polk Area.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources to be allowed in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA has a longstanding interpretation that because NNSR is replaced by PSD upon redesignation, nonattainment areas seeking redesignation to attainment need not have a fully approved part D NNSR program in order to be redesignated. *See* Nichols Memorandum. Florida currently has a fully-approved PSD and part D NNSR program in place in Chapters 62–204, 62–210, and 62–212 of the Florida Administrative Code. Florida's PSD program will become effective in the Area upon redesignation to attainment. Nonetheless, as discussed above, Florida has certified that its SIP-approved NNSR program meets the requirements of section 172(c)(5) for the Hillsborough-Polk Area and EPA is proposing to concur with that certification.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, EPA believes that Florida's SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

Finally, section 172(c)(8) allows a state to use equivalent modeling, emission inventory, and planning procedures if such use is requested by the state and approved by EPA. Florida has not requested the use of equivalent techniques under section 172(c)(8).

b. Subpart 1 Section 176—Conformity Requirements

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to

transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with federal conformity regulations relating to consultation, and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA believes that it is reasonable to interpret the conformity SIP requirements [24] as not applying for purposes of evaluating the redesignation request under section 107(d) because state conformity rules are still required after redesignation and federal conformity rules apply where state rules have not been approved. *See Wall* v. *EPA,* 265 F.3d 426 (upholding this interpretation) (6th Cir. 2001); *See* 60 FR 62748 (December 7, 1995). Furthermore, due to the relatively small, and decreasing, amounts of sulfur in gasoline and on-road diesel fuel, EPA's transportation conformity rules provide that they do not apply to SO_2 unless either the EPA Regional Administrator or the director of the state air agency has found that transportation-related emissions of SO_2 as a precursor are a significant contributor to a SO_2 or fine particulate matter ($PM_{2.5}$) nonattainment problem, or if the SIP has established an approved or adequate budget for such emissions as part of the RFP, attainment, or maintenance strategy. *See* 40 CFR 93.102(b)(1), (2)(v); SO_2 Nonattainment Area Guidance. Neither of these conditions have been met; therefore, EPA's transportation conformity rules do not apply to SO_2 for the Area. For these reasons, EPA proposes to find that Florida has satisfied all applicable requirements for purposes of redesignation of the Hillsborough-Polk Area under section 110 and part D of title I of the CAA.

B. The Hillsborough-Polk Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

EPA has fully approved the applicable Florida SIP for the Hillsborough-Polk Area under section 110(k) of the CAA for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (*see* 1992 Calcagni Memorandum at p. 3, *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3D 984, 989–90 (6th Cir. 1998); *Wall,* 265 F.3d 426) plus any additional measures it may approve in conjunction with a redesignation action. *See* 68 FR 25426 (May 12, 2003) and citations therein.

Criterion (3)—The Air Quality Improvement in the Hillsborough-Polk Area is due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable Federal air pollution control regulations, and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). As discussed above, EPA proposes to determine that the modeled attainment in the Hillsborough-Polk Area will be due to emission reductions resulting from compliance with the SO_2 permit limits at Mosaic New Wales and Mosaic Bartow. These limits will become permanent and enforceable measures if EPA finalizes its proposal to approve and incorporate them into the SIP. See section VI, above, for more discussion on these permit limits, the permit conditions proposed for approval and incorporation into the SIP, and the emissions reductions resulting from the limits.

Criterion (4)—The Hillsborough-Polk Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. *See* CAA section 107(d)(3)(E)(iv). In conjunction with its request to redesignate the Hillsborough-Polk Area to attainment for the 2010 1-hour SO_2 NAAQS, Florida submitted a draft SIP revision to provide for the maintenance of the 2010 1-hour SO_2 NAAQS for at least 10 years after the effective date of redesignation to attainment. EPA is proposing to determine that this maintenance plan meets the requirements for approval under section 175A of the CAA; however, EPA cannot take final action to approve the maintenance plan unless it finalizes its proposal to approve and incorporate the SO_2 permit limits into the SIP.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as EPA deems necessary to assure prompt correction of any future 2010 1-hour SO_2 violations. The 1992 Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: The attainment emissions inventory; maintenance demonstration; monitoring; verification of continued attainment; and a contingency plan. As is discussed more fully below, EPA is proposing to determine that Florida's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Florida SIP.

b. Attainment Emissions Inventory

An attainment inventory identifies a level of emissions in the area that is sufficient to attain the NAAQS. As discussed above, modeled attainment of the SO_2 NAAQS in the Hillsborough-Polk Area will be due to emissions reductions resulting from compliance with the SO_2 permit limits at Mosaic New Wales and Mosaic Bartow. Because the permit limits are not state-enforceable until August 31, 2019, Florida based its attainment emissions inventory on projected emissions from the year after the permit limits become state-enforceable (*i.e.,* 2020) rather than on actual emission levels that reflect complete implementation of the emission reduction measures.[25]

The largest point sources of SO_2 in or near the Hillsborough-Polk Area are Mosaic New Wales and Mosaic Bartow, which combined, account for over 99 percent of the SO_2 emissions in or near

[24] CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from the motor vehicle emission budgets that are established in control strategy SIPs and maintenance plans.

[25] *See* Tables 5 and 6 for Mosaic New Wales and Mosaic Bartow, respectively, and Appendix L in Florida's draft redesignation request and maintenance plan submittal.

the Area. Florida projected emissions from both sources to 2020 by first analyzing the average utilization factors (*i.e.,* the ratios of historical actual to allowable emissions rates) for the SAPs from 2012–2016. Over this time period, both sources emitted between approximately 60 percent and 75 percent of each facility's total allowable emissions rate. FDEP selected the high end of this range (75 percent) as the utilization factor and then applied it to the 2020 allowable emissions rate of 4,774 tpy and 4,818 tpy for Mosaic New Wales and Mosaic Bartow, respectively, to project 2020 actual emissions for both Mosaic sources. Tables 5 and 6 below provide for the historic emissions data (*i.e.,* actuals, allowables, and the average percentage of allowables) for both facilities as well as 2020 allowables and 2020 projected actuals. The projected 2020 actual emissions for Mosaic New Wales and Mosaic Bartow are 3,581 tpy and 3,614 tpy, respectively, resulting in total point source projected actual emissions of 7,195 tons.

TABLE 5—MOSAIC NEW WALES HISTORIC EMISSIONS AND 2020 PROJECTED ACTUALS EMISSIONS INVENTORY

2012–2016 Historic emissions				2020 Emissions	
Unit	Average annual actual SO_2 emissions	Annual allowable SO_2 emissions (tons)	Average percentage of allowables emitted	Allowables	Projected actuals (75 percent of 2020 allowables)
SAP 1	1,292	2,172	59.45%	4,774	3,581
SAP 2	1,517	2,172	69.81		
SAP 3	1,397	2,172	64.32		
SAP 4	1,532	2,117	72.36		
SAP 5	1,394	2,117	65.86		

TABLE 6—MOSAIC BARTOW HISTORIC EMISSIONS AND 2020 PROJECTED ACTUALS EMISSIONS INVENTORY

2012–2016 Historic Emissions				2020 Emissions	
Unit	Average annual actual SO_2 emissions	Annual allowable SO_2 emissions (tons)	Average percentage of allowables emitted	Allowables	Projected actuals (75 percent of 2020 allowables)
SAP 1	1,315	1,897	69.33	4,818	3,614
SAP 2	1,308	1,897	68.94		
SAP 3	1,336	1,897	70.43		

Table 7 includes the complete inventory of all source categories for the 2020 attainment year. A discussion of the development of the 2020–2032 projections is found in the next section.

TABLE 7—2020 PROJECTED EMISSIONS INVENTORY BY SOURCE CATEGORY

Source type	Projected 2020 SO_2 emissions (tons)
Point	7,195
Area	16.97
Non-Road	0.32
On-Road	1.30
Total	7,213.59

c. Maintenance Demonstration

Maintenance of the 2010 1-hour SO_2 standard is demonstrated either by showing that future emissions will not exceed the level of the attainment emissions inventory year or by modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS. As discussed in the SO_2 Nonattainment Area Guidance, an EPA-approved demonstration of attainment that relies on air quality dispersion modeling using maximum allowable emissions, such as Florida's modeling, can generally be expected to demonstrate that the standard will be maintained for the requisite 10 years and beyond without regard to any changes in operation rate of the pertinent sources that do not involve increases in maximum allowable emissions.[26] EPA believes that the Hillsborough-Polk Area will continue to maintain the 2010 1-hour SO_2 standard through year 2032 because the relevant sources are required to comply with the permit limits that air quality modeling shows will maintain the standard.

To evaluate maintenance through 2032 and satisfy the 10-year interval required in CAA section 175A, Florida elected to prepare projected emissions inventories for 2020–2032. The emissions inventories are composed of the following general source categories: point, area, non-road mobile, and on-road mobile. The emissions inventories were developed consistent with EPA guidance and are summarized in Table 8.

Florida estimated 2020 point source emissions as discussed above and held those emissions steady through 2032 because it is not aware of and does not anticipate any future development within the Hillsborough-Polk Area that would increase SO_2 emissions. Furthermore, following achievement of the emission levels that Florida demonstrated yield attainment, actual emissions from Mosaic New Wales and Mosaic Bartow must remain at or below these levels.

Florida estimated on-road mobile emissions utilizing the most recent version of EPA's Motor Vehicle Emission Simulator (MOVES2014a). The State developed MOVES inputs for the 2017 base year using county-level traffic modeling from the Florida Department of Transportation and vehicle population information from the Florida Department of Highway Safety and Motor Vehicles (FLDHSMV). Where county-level data was not available, FDEP used MOVES default data. To develop MOVES inputs for future years, FDEP calculated the linear trend of vehicle population growth using FLDHSMV data from 2008 to 2018 and projected it to future years. FDEP apportioned the Hillsborough County

[26] *See* SO_2 Nonattainment Area Guidance at p.67.

and Polk County results of the MOVES2014a model runs for each year to the Hillsborough-Polk Area by using the fraction of the county land area contained within the boundaries of the Hillsborough-Polk Area.[27]

Estimates for the projected future emissions inventories for area and non-road categories were calculated by multiplying the area and non-road 2014 NEI data [28] by the projected increase in population in Hillsborough and Polk Counties in 2020 and each interim year. The population data for 2014 and 2017 were obtained from the US Census Bureau. Population projections for 2020 through 2032 were developed by the Florida Bureau of Economic and Business Research. For years where projections were not available, the projections were interpolated.[29] County level emissions were apportioned to the Hillsborough-Polk Area using the fraction of the county land area within the Hillsborough-Polk Area boundary.

Florida compared projected emissions for the final year of the maintenance plan (2032) to the 2020 projected actuals emissions inventory and compared interim years to the 2020 projected actuals inventory to demonstrate continued maintenance of the 2010 1-hour SO_2 standard. For additional information regarding the development of the projected inventories, see Florida's February 15, 2019, draft SIP submittal.

TABLE 8—PROJECTED FUTURE EMISSIONS INVENTORIES FOR THE HILLSBOROUGH-POLK AREA

Source type	Projected 2020 SO_2 emissions (tons)	Projected 2023 SO_2 emissions (tons)	Projected 2026 SO_2 emissions (tons)	Projected 2029 SO_2 emissions (tons)	Projected 2032 SO_2 emissions (tons)
Point	7,195	7,195	7,195	7,195	7,195
Area	16.97	17.83	18.66	19.44	20.16
Non-road	0.32	0.33	0.35	0.37	0.38
On-road	1.30	1.27	1.22	1.22	1.22
Total	7,213.59	7,214.43	7,215.23	7,216.03	7,216.76

In situations where local emissions are the primary contributor to nonattainment, such as the Hillsborough-Polk Area, if the future projected emissions in the nonattainment area remain at or below the baseline emissions in the nonattainment area, then the related ambient air quality standards should not be violated in the future. Florida has projected emissions as described previously, and these projections indicate that emissions in the Hillsborough-Polk Area will remain at nearly the same levels as those in the attainment year inventory for the duration of the maintenance plan. While these projections include a very small increase in area and nonroad emissions from 2020 to 2032 (3.25 tons), the increase is negligible when compared to the total emissions inventory, and EPA does not believe that this projected increase should cause a violation of the 2010 1-hour SO_2 NAAQS through 2032. This belief is supported by the fact that Florida does not anticipate any future development within the Hillsborough-Polk Area that could potentially increase SO_2 emissions and the fact that any increases in actual emissions from Mosaic New Wales or Mosaic Bartow must remain below their permitted levels. Furthermore, any potential future SO_2 emissions sources that may locate in or near the Area would be required to comply with the FDEP's approved NSR permitting programs to ensure that the Area will continue to meet the NAAQS.

d. Monitoring Network

As noted above, the Hillsborough-Polk Area was designated nonattainment based on air dispersion modeling; there is no ambient air monitor in the Area. Therefore, the maintenance plan does not contain provisions for continued operation of air quality monitors to verify attainment status. As discussed in the following section, Florida will verify continued attainment using emissions data from Mosaic New Wales and Mosaic Bartow and an evaluation of air dispersion modeling inputs.

e. Verification of Continued Attainment

The State of Florida, through FDEP, has the legal authority to enforce and implement all measures necessary to attain and maintain the NAAQS. Section 403.061(35), Florida Statutes, authorizes the Department to ''exercise the duties, powers, and responsibilities required of the state under the federal Clean Air Act.'' This includes implementing and enforcing all measures necessary to attain and maintain the NAAQS.

Because there is no ambient air SO_2 monitor in the Hillsborough-Polk Area, Florida will verify continued attainment of the 2010 1-hour SO_2 standard through an annual review of emissions data and air dispersion modeling inputs and assumptions for Mosaic New Wales and Mosaic Bartow. Florida will use emissions data from the required AOR submittals from both facilities to verify continued compliance with the permitted limits used to model attainment of the NAAQS in the Area. Actual emissions must remain below permitted levels, which will be made permanent and federally-enforceable if EPA finalizes its proposal to approve and incorporate the permit limits into the SIP.

Florida will evaluate the inputs and assumptions used to model attainment by assessing emissions data and basic air dispersion inputs for the Area on an annual basis. Prior to each annual review, FDEP will contact EPA to discuss the emissions data and air dispersion modeling inputs and assumptions necessary for evaluation. FDEP will verify attainment using the emissions data and air dispersion modeling inputs and assumptions identified by EPA as a result of coordination with FDEP. FDEP anticipates that the inputs and assumptions may include stack parameters for all modeled sources; significant changes to land use in the area; a limited review of meteorology; changes in operation that lead to a temporal or spatial distribution of emissions; onsite construction that change building configuration/

[27] *See* Table 3 in Appendix L for summarize land area and MOVES2014a data.

[28] *See* Table 5 in Appendix L for summarize 2014 NEI emissions data for area and non-road source categories.

[29] Population data and projections are summarized in Table 4 in Appendix L.

dimensions or add new buildings; changes in fuel that would alter emissions; and changes in ambient background concentrations used in the cumulative modeling analysis.

Based on its review of source emissions data and air dispersion modeling inputs and assumptions, FDEP will provide an annual report to EPA on or before July 1st that certifies whether the Hillsborough-Polk Area is continuing to attain the 2010 1-hour SO_2 NAAQS. This annual report will provide: (1) The status of ongoing compliance with the SO_2 permit limits for Mosaic New Wales and Mosaic Bartow; (2) a review of annual emissions data for these facilities; (3) a review of the air dispersion modeling inputs and assumptions identified by EPA as a result of coordination with FDEP; (4) a certification that there are no changes in the air dispersion modeling inputs and assumptions that could result in a modeled violation; and (5) all supporting documentation and data evaluated by FDEP to prepare its annual report.

If FDEP certifies that there are no changes in the modeling inputs and assumptions that could result in modeled violations, and EPA concurs, no additional action or information is necessary to verify continued attainment. If FDEP or EPA identifies a change in the modeling inputs and assumptions that could cause a modeled violation, FDEP, in coordination with EPA, will further evaluate the modeling inputs and assumptions and complete this evaluation no later than 30 days after identifying the changes. If this evaluation continues to indicate that a modeled violation could occur, FDEP will conduct air dispersion modeling no later than 30 days after completing the evaluation. If the revised model does not produce a modeled violation, then no additional action or information is necessary to verify continued attainment. If the revised model produces a modeled violation of the 2010 1-hour SO_2 standard within the nonattainment area, the State will implement the relevant contingency measures as discussed below.

f. Contingency Measures in the Maintenance Plan

Section 175A of the CAA requires that a maintenance plan include contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. In cases where attainment revolves around compliance of a single source or a small set of sources with emissions limits shown to provide for attainment, EPA interprets ''contingency measures'' to mean that the state agency has a comprehensive program to identify sources of violations of the SO_2 NAAQS and to undertake aggressive follow-up for compliance and enforcement, including expedited procedures for establishing enforceable consent agreement pending the adoption of revised SIPs.[30] A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

The contingency plan included in the maintenance plan contains triggers to determine when contingency measures are needed and what kind of measures should be used. The Title V operating permits for Mosaic New Wales and Mosaic Bartow require the facilities to report any non-compliance with permit conditions or limitations.[31] Upon receipt of such a report from Mosaic New Wales and/or Mosaic Bartow that identifies noncompliance with the SO_2 permit limits, FDEP will immediately begin a 30-day evaluation period to diagnose the cause of noncompliance. This will be followed by a 30-day consultation period with Mosaic New Wales and/or Mosaic Bartow to develop and implement operational changes identified during the consultation period to prevent any future noncompliance with the SO_2 permit limits. These changes could include, but would not be limited to, physical or operational reduction of production capacity, as appropriate. Any necessary changes would be implemented as soon as practicable, with at least one measured implemented during the full system audit implemented within 18–24 months of the noncompliance with the SO_2 permit limits, in order to bring the Area into attainment as expeditiously as possible.

FDEP would rely on its authority outlined in Rule 62–4.080, F.A.C., which expressly authorizes FDEP to require the permittee to conform to new or additional conditions if there is a showing of any change in the environment or surrounding conditions that requires a modification to conform to applicable air quality standards. Depending on the present circumstances, FDEP would exercise this authority to work expeditiously with Mosaic New Wales and Mosaic Bartow to make necessary permit modifications. If a permit modification is deemed necessary, FDEP would issue a final permit within the statutory timeframes in Sections 120 and 403, Florida Statutes, and any new permit limits required by such a permit would be submitted to EPA as a SIP revision.

If revised air dispersion modeling performed during the verification of continued attainment process produces a violation of the 2010 1-hour SO_2 standard due to changes in modeling inputs and assumptions, FDEP will immediately begin a 30-day evaluation period to diagnose the cause of the modeled violation, including consultation with any emission source(s) that FDEP believes may be a cause of the modeled violation. At the completion of this evaluation period, FDEP will begin to take necessary measures to remedy the modeled violation of the 2010 1-hour SO_2 standard, which may include mandating physical or operational changes at emission sources. Any necessary changes would be implemented as soon as practicable, with at least one measure implemented within 18–24 months of the modeled violation, in order to bring the area into modeled attainment as expeditiously as possible.

[30] *See* SO_2 Nonattainment Area Guidance at p.69. FDEP has an active compliance and enforcement program to address violations. FDEP will continue to operate this program to identify sources of violations of the SO_2 NAAQS and to undertake an aggressive follow-up for compliance and enforcement, including expedited procedures for establishing enforceable consent agreements pending the adoption of revised SIPs. FDEP commits to adopt and expeditiously implement necessary corrective actions in the event of a violation.

[31] This reporting requirement is detailed in Appendix RR2(b) and (c) in the Title V permits as follows: ''b. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information: (1) A description of and cause of noncompliance; and (2) The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance. The permittee shall be responsible for any and all damaged which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit. c. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware the relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.'' ''Immediately'' is defined in Appendix RR(d) as ''the same day, if during a workday (*i.e.,* 8:00 a.m.–5:00 p.m.), or the first business day after the incident, excluding weekends and holidays.''

EPA has preliminarily concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: The attainment emissions inventory; maintenance demonstration; monitoring; verification of continued attainment; and a contingency plan. Therefore, EPA proposes to determine that the maintenance plan for the Area meets the requirements of section 175A of the CAA and proposes to incorporate the maintenance plan into the Florida SIP. EPA cannot take final action to approve the maintenance plan unless it finalizes its proposal to approve and incorporate the SO_2 permit limits into the SIP.

VIII. What is EPA's analysis of the redesignation request for the Mulberry Area?

A. Background

On January 9, 2018 (effective April 9, 2018), EPA designated the Mulberry Area as unclassifiable for the 2010 1-hour SO_2 NAAQS. *See* 83 FR 1098. EPA designated the Area as unclassifiable based on uncertainty regarding the potential for SO_2 emissions from Mosaic Bartow to contribute to the Hillsborough-Polk Area. EPA's rationale for this designation is outlined in the TSD associated with EPA's designation for the Mulberry Area.[32]

B. Criteria for Redesignating an Area From Unclassifiable to Attainment/ Unclassifiable

Section 107(d)(3) of the CAA provides the framework for changing the area designations for any NAAQS pollutants. Section 107(d)(3)(A) provides that the Administrator may notify the Governor of any state that the designation of an area should be revised ''on the basis of air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate.'' The Act further provides in section 107(d)(3)(D) that even if the Administrator has not notified a state Governor that a designation should be revised, the Governor of any state may, on the Governor's own motion, submit a request to revise the designation of any area, and the Administrator must approve or deny the request.

When approving or denying a request to redesignate an area, EPA bases its decision on the air quality data for the area as well as the considerations provided under section 107(d)(3)(A).[33] For the 1-hour SO_2 NAAQS, EPA may also base its decision on relevant modeling analyses as discussed in section VII.C, above. In keeping with section 107(d)(1)(A), areas that are redesignated to attainment/ unclassifiable must meet the requirements for attainment areas and thus must meet the relevant NAAQS.[34] In addition, the area must not contribute to ambient air quality in a nearby area that does not meet the NAAQS.

C. EPA's Rationale for Proposing To Redesignate the Mulberry Area

As noted above, EPA designated the Mulberry Area as unclassifiable due to uncertainty regarding the potential contribution of emissions from Mosaic Bartow to the Hillsborough-Polk Area. After EPA finalized the designation, FDEP established permits requiring catalyst installation and compliance with the SO_2 permit limits for Mosaic New Wales and Mosaic Bartow. As discussed above, EPA has reviewed the modeling based on CEVs which, when adjusted, provide for the 24-hour adjusted emission caps of 1,100 lb/hr and 1,138 lb/hr for New Wales and Bartow, respectively. To provide for an additional margin of safety in its air dispersion modeling, Florida slightly lowered the maximum 24-hour emission caps to establish final multi-unit permit limits of 1,090 lb/hr and 1,100 lb/hr for New Wales and Bartow, respectively. EPA believes that the modeling results relying on the slightly lowered permit limits appropriately characterize the air quality in the Mulberry Area and that this modeling demonstrates that the Mulberry Area will have attained the 1-hour SO_2 standard as a result of compliance with these limits at Mosaic New Wales and Mosaic Bartow. Therefore, EPA proposes to redesignate the Mulberry Area to attainment/ unclassifiable for the SO_2 NAAQS. EPA cannot redesignate the Mulberry Area to attainment/unclassifiable unless it finalizes its proposal to approve and incorporate the permit limits and associated compliance and monitoring parameters into the SIP.

IX. What is the effect of EPA's proposed actions?

Approval and incorporation of the Mosaic New Wales and Mosaic Bartow permit conditions described in Section VI, above, into the SIP would make them permanent and federally enforceable.

Approval of the base-year emissions inventory would satisfy the requirements of CAA section 173(c)(3) for the Hillsborough-Polk Area and incorporate that inventory into the SIP. Concurrence with Florida's certification that prior EPA rulemaking has approved NNSR rules that require NNSR for the Hillsborough-Polk Area for so long as the Area is designated nonattainment would satisfy CAA section 173(c)(5).

Approval of Florida's redesignation request for the Hillsborough-Polk Area would change the legal designation of the portions of Hillsborough and Polk Counties that are within the Hillsborough-Polk Area, as found at 40 CFR part 81, from nonattainment to attainment for the 2010 1-hour SO_2 NAAQS. Approval of Florida's associated maintenance plan SIP revision would incorporate a plan for maintaining the 2010 1-hour SO_2 NAAQS in the Hillsborough-Polk Area through 2032 into the SIP.

Lastly, approval of Florida's redesignation request for the Mulberry Area would change the legal designation of the portion of Polk County that is within the Mulberry Area, as found at 40 CFR part 81, from unclassifiable to attainment/unclassifiable for the 2010 1-hour SO_2 NAAQS.

X. Incorporation by Reference

EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference into Florida's SIP the following conditions from Permit No. 1050046–050–AC issued by FDEP to Mosaic Bartow with an effective date of July 3, 2017: (1) Section III, Subsection A, Specific Condition 3 (as administratively corrected by Permit No. 1050046–063–AC with an effective date of January 11, 2019);[35] (2) Section

[32] *See* Chapter 9 of the Technical Support Document for the Round 3 Designations for the 2010 1-Hour SO_2 NAAQS located in the docket for the designation at Docket ID No. EPA–HQ–OAR–2017–0003–0635.

[33] While CAA section 107(d)(3)(E) also lists specific requirements for redesignations, those requirements only apply to redesignations of nonattainment areas to attainment and, therefore, are not applicable in the context of a redesignation of an area from unclassifiable to attainment/ unclassifiable.

[34] Historically, EPA has designated most areas that do not meet the definition of nonattainment as ''unclassifiable/attainment.'' EPA has reversed the order of the label to be ''attainment/unclassifiable'' to better convey the definition of the designation category and so that the category is more easily distinguished from the separate unclassifiable category. *See, e.g.,* 83 FR 1098, 1099 (January 9, 2018) and 83 FR 25776, 25778 (June 4, 2018). EPA reserves the ''attainment'' category for when EPA redesignates a nonattainment area to attainment.

[35] This provision states: ''*SO_2 Emissions Limit:* The following emission limit applies to the Sulfuric Acid Plant (SAP) Nos. 1, 2, 3, 4 & 5: a. When all five SAPs are in operation within the same 24-hour block averaging period, a cap of 1,090 lb SO_2/hour, 24-hour block average (6:00 a.m. to 6:00 a.m.) is applicable; and, b. The cap of 1,090 lb SO_2/hour,

Continued

III, Subsection A, Specific Condition 4;[36] and (3) Section III, Subsection A, Specific Condition 5.[37] In accordance with requirements of 1 CFR 51.5, EPA is also proposing to incorporate by reference into Florida's SIP the following conditions from Permit No. 1050059–106–AC issued by FDEP to Mosaic New Wales with an effective date of October 30, 2017: (1) Section III, Subsection A, Specific Condition 3;[38] (2) Section III, Subsection A, Specific Condition 4 (as administratively corrected by Permit No. 1050059–114–AC with an effective date of January 11, 2019);[39] and (3) Section III, Subsection A, Specific Condition 5.[40] EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

XI. Proposed Actions

EPA is proposing to approve SIP revisions provided by Florida related to the 2010 1-hour SO_2 NAAQS. Specifically, EPA is proposing to approve Florida's December 1, 2017, SIP revision (as supplemented through the February 15, 2019, draft SIP revision) which includes SO_2 permit limits and associated compliance and monitoring provisions for Mosaic New Wales and Mosaic Bartow. The December 1, 2017, SIP revision also includes a modeling analysis to demonstrate that the Hillsborough-Polk Area will attain the SO_2 NAAQS as a result of compliance with these permit limits.

EPA is also proposing to approve, through parallel processing, a draft February 15, 2019 request to redesignate the Hillsborough-Polk Area to attainment for the SO_2 NAAQS and associated SIP revision containing the State's plan for maintaining attainment of the 2010 1-hour SO_2 standard in that Area. Florida also submitted draft SIP revisions on February 15, 2019, to revise the modeling analysis in the 2017 SIP revision, provide a base-year emissions inventory for the Area, and certify that the Area meets NNSR requirements. In addition, EPA is proposing to approve, through parallel processing, Florida's draft February 15, 2019 request to redesignate the Mulberry Area to attainment/unclassifiable for the 2010 SO_2 NAAQS.

EPA is proposing to approve these requests and SIP revisions because the Agency has made the preliminary determination that they meet the requirements of the CAA.

XII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) as well as the redesignation of an area to attainment/unclassifiable are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment or to attainment/unclassifiable does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment or attainment/unclassifiable, respectively. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these proposed actions merely propose to approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For this reason, these proposed actions:

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

These proposed actions do not apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, these proposed actions do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will they impose substantial direct costs on tribal governments or preempt tribal law.

24-hour block average (6:00 a.m. to 6:00 a.m.) applies in scenarios when any combination of any number of the SAPs are not in operation and when any number of the SAPs are in operation. [Rules 62–4.030, General *Prohibition,* F.A.C. & Rule 62–4.210, *Construction Permits,* F.A.C.; Application No. 1050059–106–AC; and, Administrative Permit Correction Application No. 1050059–114–AC.]''

[36] This provision states: ''*Initial Compliance:* These emission units shall use certified SO_2 CEMS data to demonstrate initial compliance with the new SO_2 emission limit. [Rules 62–4.070(1)&(3), *Reasonable Assurance,* F.A.C.; and, Application Nos. 1050059–103–AC & 1050059–106–AC.]''

[37] This provision states: ''*Recordkeeping:* The permittee shall keep records of the initial compliance demonstration. The records shall include the SO_2 CEMS data along with the sulfuric acid production rate (TPH, tons per hour) during the demonstration. Any reports shall be prepared in accordance with the applicable requirements specified in Appendix D (Common Testing Requirements) of this permit. [Rule 62–297.310(10), F.A.C.; and, Application Nos. 1050059–103–AC & 1050059–106–AC.]''

[38] This provision states: ''*SO_2 Emissions Limit:* The following emission limit applies to the Sulfuric Acid Plant (SAP) Nos. 4, 5 & 6: a. When all five SAPs are in operation within the same 24-hour block averaging period, a cap of 1,100 lb SO_2/hour, 24-hour block average (6:00 a.m. to 6:00 a.m.) is applicable; and, b. The cap of 1,100 lb SO_2/hour, 24-hour block average (6:00 a.m. to 6:00 a.m.) applies in scenarios when any combination of any number of the SAPs are not in operation and when any number of the SAPs are in operation. [Rules 62–4.030, General *Prohibition,* F.A.C. & Rule 62–4.210, *Construction Permits,* F.A.C.; Application No. 1050046–050–AC; and, Administrative Permit Correction Application No. 1050046–063–AC.]''

[39] This provision states: ''*Initial Compliance:* These emission units shall use certified SO_2 CEMS data to demonstrate initial compliance with the new SO_2 emission limit. [Rules 62–4.070(1)&(3), *Reasonable Assurance,* F.A.C.; and, Application No. 1050046–050–AC.]''

[40] This provision states: ''*Recordkeeping:* The permittee shall keep records of the initial compliance demonstration. The records shall include the SO_2 CEMS data along with the sulfuric acid production rate (TPH, tons per hour) during the demonstration. Any reports shall be prepared in accordance with the applicable requirements specified in Appendix D (Common Testing Requirements) of this permit. [Rule 62–297.310(10), F.A.C.; and, Application No. 1050046–050–AC.]''

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping, Sulfur dioxide.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

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

Dated: August 27, 2019.

Mary S. Walker,

Regional Administrator, Region 4.

[FR Doc. 2019–19413 Filed 9–6–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2018–0029; FXES11130900000 189 FF09E42000]

RIN 1018–BD46

Endangered and Threatened Wildlife and Plants; Reclassifying the American Burying Beetle From Endangered to Threatened on the Federal List of Endangered and Threatened Wildlife With a 4(d) Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of public comment period, and announcement of a public hearing.

SUMMARY: We, the U.S. Fish and Wildlife Service, recently published a proposed rule to reclassify the American burying beetle (*Nicrophorus americanus*) from endangered to threatened and to adopt a rule under section 4(d) of the Endangered Species Act of 1973 (Act), as amended, to provide for the conservation of the species. We announced a 60-day public comment period on the proposed rule, ending July 2, 2019. We now reopen the public comment period on the proposed rule for 30 days, to allow all interested parties additional time to comment on the proposed rule. Comments previously submitted need not be resubmitted and will be fully considered in preparation of the final rule. We also announce a public informational meeting and public hearing on the proposed rule.

DATES:

Written comments: The comment period on the proposed rule that published May 3, 2019 (84 FR 19013), is reopened. We will accept comments received or postmarked on or before October 9, 2019. Please note that comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date, and comments submitted by U.S. mail must be postmarked by that date to ensure consideration.

Public informational meeting and public hearing: We will hold a public informational meeting on September 24, 2019, from 5 p.m. to 6 p.m., followed by a public hearing from 6:30 p.m. to 8 p.m.

ADDRESSES:

Availability of documents: You may obtain copies of the May 3, 2019, proposed rule and associated documents on the internet at *http://www.regulations.gov* under Docket No. FWS–R2–ES–2018–0029.

Written comments: You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Search for FWS–R2–ES–2018–0029, which is the docket number for the proposed rule. You may submit a comment by clicking on ''Comment Now!'' Please ensure you have found the correct document before submitting your comments. If your comments will fit in the provided comment box, please use this feature of *http://www.regulations.gov,* as it is most compatible with our comment review procedures. If you attach your comments as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: Docket No. FWS–R2–ES–2018–0029, U.S. Fish and Wildlife Service, MS: JAO/1N, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

(3) *At the public hearing:* Hand-deliver your prepared written comments to Service personnel at the scheduled public hearing.

We request that you send comments only by the methods described above. We will post all substantive comments we receive on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Public Comments, below, for more information).

Public informational meeting and public hearing: The public informational meeting and the public hearing will be held at the Oklahoma University, Schusterman Center, Perkins Auditorium LC1, 4502 East 41st Street, Tulsa, OK 74135. See Public Hearing, below, for more information.

FOR FURTHER INFORMATION CONTACT: Jonna Polk, Field Supervisor, U.S. Fish and Wildlife Service, Oklahoma Ecological Services Field Office, 9014 East 21st St., Tulsa, OK 74129; telephone 918–382–4500. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

On May 3, 2019, we published a proposed rule (84 FR 19013) to reclassify the American burying beetle as a threatened species under the Act (16 U.S.C. 1531 *et seq.*) and to adopt a rule under section 4(d) of the Act (a ''4(d) rule'') to provide for the conservation of the species. The proposed rule had a 60-day public comment period, ending July 2, 2019. During the comment period for the proposed rule, we received a request for a public hearing. We are, therefore, reopening the comment period on our proposed rule to reclassify the American burying beetle as a threatened species and to adopt a 4(d) rule for the species for 30 days (see **DATES**, above), to hold a public informational meeting and a public hearing and to allow the public an additional opportunity to provide comments on our proposal.

For a description of previous Federal actions concerning the American burying beetle, please refer to the May 3, 2019, proposed rule (84 FR 19013).

Public Comments

We will accept comments and information during this reopened comment period on our proposed rule to reclassify the American burying beetle as a threatened species and to adopt a 4(d) rule to provide for the conservation of the species. We will consider information and recommendations from all interested parties. We intend that any final action resulting from the proposal will be based on the best scientific and commercial data available and will be as accurate and as effective as possible. Our final determination will take into consideration all comments and any additional information we receive during all comment periods on the proposed rule. Therefore, the final decision may differ from the May 3, 2019, proposed rule, based on our review of all information we receive during the comment periods.

If you already submitted comments or information on the May 3, 2019, proposed rule, please do not resubmit them. Any such comments are incorporated as part of the public record of the rulemaking proceeding, and we will fully consider them in the preparation of our final determination.

Comments should be as specific as possible. Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you assert. Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, will not meet the standard of best available scientific and commercial data. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is endangered or threatened must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your comments and materials by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**. You may also provide your comments through verbal testimony during the public hearing (see **DATES**, **ADDRESSES**, and Public Hearing in this document).

If you submit information via *http://www.regulations.gov,* your entire submission—including your personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R2–ES–2018–0029, or by appointment, during normal business hours at U.S. Fish and Wildlife Service, Oklahoma Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Our final determination concerning the proposed action will take into consideration all written comments we receive during the open comment periods, and comments received during the public hearing. These comments will be included in the public record for this rulemaking, and we will fully consider them in the preparation of our final determination.

Public Hearing

We are holding a public informational meeting followed by a public hearing on the date listed in **DATES** at the location listed in **ADDRESSES**. We are holding the public hearing to provide interested parties an opportunity to present verbal testimony (formal, oral comments) or hand-deliver their prepared written comments regarding the May 3, 2019 (84 FR 19013), proposed rule to reclassify the American burying beetle as a threatened species and to adopt a 4(d) rule to provide for the conservation of the species. A public hearing is not, however, an opportunity for dialogue with the Service or its contractors; it is a forum for accepting formal verbal testimony. In the event there is a large attendance, the time allotted for oral statements may be limited. Therefore, anyone wishing to make an oral statement at the public hearing for the record is encouraged to provide a prepared written copy of their statement to us at the hearing. Speakers can sign up at the hearing if they desire to make an oral statement. Oral and written statements receive equal consideration. There are no limits on the length of written comments submitted to us.

Persons with disabilities requiring reasonable accommodations to participate in the public hearing should contact the Oklahoma Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). Reasonable accommodation requests should be received at least 3 business days prior to the hearing to help ensure availability. Please direct all requests for sign language interpreting services to the Oklahoma Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**) by close of business September 18, 2019.

Authors

The primary authors of this document are the Ecological Services staff of the Southwest Regional Office, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 29, 2019.

Stephen Guertin,

Deputy Director, Exercising the Authority of the Director for the U.S. Fish and Wildlife Service.

[FR Doc. 2019–19245 Filed 9–6–19; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register

Vol. 84, No. 174

Monday, September 9, 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

Census Bureau

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

Agency: U.S. Census Bureau.

Title: 2020 Census—Evaluations and Experiments

The initial **Federal Register** Notice ''2020 Census'' (June 8, 2018, Vol. 83, Number 111, pp. 26643–26653, FR Doc No.: 2018–12365) described the 2020 Census in full. Approval for the 2020 Census is being sought from OMB in phases. The first phase of approval was for the 2020 Census Address Canvassing operation only, which was described in **Federal Register** Notice ''2020 Census,'' October 2, 2018 (Vol. 83, No. 191, pp. 49535–49539, FR Doc No.: 2018–21386). Address Canvassing creates the address list for the census and precedes census enumeration data collection. The remaining enumeration operations scoped for the 2020 Census data collection were described in **Federal Register** Notice ''2020 Census,'' February 13, 2019 (Vol. 84, No. 30, pp 3746–3757, FR Doc. No.: 2019–02223), which had an additional 30-day comment period. The Evaluations and Experiments description will be considered as an additional revision to the approved OMB materials. In addition, the Group Quarters and Enumeration at Transitory Locations operation descriptions will be updated in this Notice. Previous Notices have not described fully some of the stages of these operations. In addition, there have been some changes to stages that were previously described.

In addition, there has been an overall change to the 2020 Census program since the prior Notice publication. This change will be described in this Notice for the purposes of providing the most current details about the 2020 Census program. In particular, the program change is related to the determination of enumeration methodology by geographic area, or the Type of Enumeration Area (TEA) delineation.

OMB Control Number: 0607–1006.

Form Number(s): D–Q1, D–Q1(E/S), D–Q–XG(E/S).

Type of Request: Revision of a currently approved collection.

Number of Respondents: 193,426,318 to 2020 Census.

Average Hours Per Response: 10 minutes for census enumeration.

Burden Hours: 28,984,001 for 2020 Census.

This burden is higher than shown in prior Notices for multiple reasons. Additional phases for group quarters and transitory locations collections have been added; the total estimated number of housing units has been adjusted upward as a result of geographic file and TEA updates; a supplemental file delivery of new addresses to the census universe has now been accounted for within the Nonresponse Followup workload estimate.

The TEAs are described further in *Needs and Uses.* In the final TEA delineation, some housing units have been moved between TEAs. In particular, the Update Leave and Update Enumerate areas have decreased while the self-response area has increased.

An adjustment to the predicted response rate is represented with a change between the percents attributed to self-response versus Nonresponse Followup. The predicted response rate within the self-response area is 61.5 percent and within the Update Leave area is 51 percent. The total burden is unchanged by these shifts.

Where the evaluations and experiments collect census data using different techniques or questionnaires, the burden shows a separate line for this collection. The total burden is unchanged by this breakout.

2020 CENSUS

Operation or category	Estimated number of respondents	Estimated time per response (in minutes)	Total burden hours
Address Canvassing	15,786,734	5	1,315,561
Address Canvassing Listing Quality Control	1,578,673	5	131,556
Address Canvassing Subtotal	17,365,407		1,447,117
Geographic Areas Focused on Self-Response (this includes Mailout and Update Leave)			
Internet/Telephone/Paper	87,774,467	10	14,629,078
Optimization of Self-Response Experiment	118,541	10	19,757
Extending the Decennial Census Environment to the Mailing Materials	172,992	10	28,832
Update Leave	6,600,000	5	550,000
Update Leave Quality Control	660,000	5	55,000
Nonresponse Followup	62,934,000	10	10,489,000
Nonresponse Followup Reinterview	3,146,700	5	262,225
Self-Response Quality Assurance	250,000	10	41,667
Field Verification	400,000	2	13,333
Field Verification Quality Control	40,000	2	1,333
Coverage Improvement	3,200,000	7	373,333
Non-ID Processing Phone Followup	750,000	5	62,500

2020 CENSUS—Continued

Operation or category	Estimated number of respondents	Estimated time per response (in minutes)	Total burden hours
Self-Response Areas Subtotal	166,046,700		26,526,058
Geographic Area Focused on Update Enumerate			
Update Enumerate Production	35,000	12	7,000
Update Enumerate Listing Quality Control	3,500	5	292
Update Enumerate Reinterview	1,750	10	292
Update Enumerate Subtotal	40,250		7,584
Group Quarters (GQ)			
Domestic Violence Shelter address collection	57	20	19
GQ Advance Contact (facility)	297,000	10	49,500
GQ Enumeration—eResponse (facility)	14,300	20	4,767
GQ Enumeration—person contact	8,000,000	5	666,667
Service-Based Enumeration	800,000	5	66,667
Group Quarters Quality Control	8,500	5	708
Domestic Violence Shelter Enumeration	*0		0
Military Enumeration	*0		0
Maritime and Military Vessel Enumeration	*0		0
Group Quarters Subtotal	9,119,857		788,328
Carnivals/Circuses address collection	450	10	75
Hotels/Motels address collection	55,000	10	9,167
Enumeration at Transitory Locations—Advance Contact	50,000	10	8,333
Enumeration at Transitory Locations—Units	600,000	10	100,000
Federally Affiliated Count Overseas	82	5	7
Island Areas Censuses—Housing Units	138,281	40	92,187
Island Areas Censuses—Group Quarters	10,291	30	5,146
Totals	193,426,318		28,984,001

*This burden is included in GQ enumeration—person contact.

Needs and Uses:

Article 1, Section 2 of the United States Constitution mandates that the U.S. House of Representatives be reapportioned every ten years by conducting an enumeration of all residents. In addition to the reapportionment of the U.S. Congress, Census data are used to draw legislative district boundaries within states. Census data are also used by numerous agencies to determine funding allocations for the distribution of an estimated $675 billion of federal funds each year.

The taking of a decennial census is mandated by Article 1, Section 2 of the U.S. Constitution. Title 13, United States Code (U.S.C), Section 141 directs the Secretary to take a decennial census of population and housing, determining its form and content, and further authorizes the collection of such other census information in relation to the decennial census, as necessary. These authorities are delegated to the Director of the Census Bureau under Department of Commerce Organization Order 35–2A. The Census Bureau is required to conduct the 2020 Census to collect the person and housing data that will be used for reapportionment, redistricting, and various statistical data products, under Title 13, U.S. Code. Additionally, the Census Bureau is authorized under Title 13 Section 193 to conduct surveys and collect information before, during, and after the decennial census to assist in the conduct of the decennial census.

Type of Enumeration Areas

Prior to the census, it is necessary to delineate all geographic areas into Type of Enumeration Areas (TEAs), which describe what methodology will be used for census material delivery and household enumeration in order to use the most cost-effective enumeration approach for achieving maximum accuracy and completeness. TEAs also describe what methodology will be used for updating the address frame. For the United States and Puerto Rico, TEAs are delineated at the block level based on the address and spatial data in the Census Bureau's Master Address File (MAF)/Topologically Integrated Geographic Encoding and Referencing system (TIGER) database.

The TEAs designated for the 2020 Census are:

* TEA 1 = Self-Response.
* TEA 2 = Update Enumerate.
* TEA 3 = Island Areas.
* TEA 4 = Remote Alaska.
* TEA 6 = Update Leave.

The most common enumeration method by percentage of households is self-response (TEA 1), where materials will be delivered to each address through the mail and self-response will be supported and promoted. Self-response can occur when households mail back a 2020 Census paper questionnaire, submit the data on the 2020 Census internet questionnaire, or call the telephone number for Census Questionnaire Assistance and submit the data during the phone call. After the initial self-response phase, nonresponding households in TEA 1 will be enumerated in the Nonresponse Followup (NRFU) operation. In Update Enumerate (TEA 2), Census Bureau enumerators visit an address, update the address list, and attempt household enumeration at the same time. This TEA will be used for a very small portion of the addresses in the country, such as those with access problems or minimal mail service. The Island Areas (TEA 3) are not currently included in MAF/TIGER. With no existing address list for these areas, the address list will be

created and enumeration will be attempted at the same time. Remote Alaska (TEA 4) uses the Update Enumerate methodology but in remote areas of Alaska. These areas have unique challenges associated with the accessibility to communities where the population ranges from several hundred people to just a few people. Communities are widely scattered and rarely linked by roads. Most are accessible only by small-engine airplane, snowmobile, four-wheel-drive vehicles, dogsled, or some combination thereof. This operation occurs earlier than other enumeration operations (starting in January) due to seasonal availability of the population, who disperse when warmer weather arrives. During Update Leave (TEA 6), Census Bureau staff visit an address, update the address list, and leave a questionnaire package at each individual housing unit. The household is expected to return the questionnaire or submit their data online or by telephone. Puerto Rico is designated as entirely Update Leave in order to create a current address list at the time of the census, in response to changes that may have occurred due to recent natural disasters. Nonresponding units in Update Leave areas are included in the NRFU workload.

Prior Notices included a TEA 5 for Military areas. This planned procedure is no longer being included in the 2020 Census. Areas previously designated as TEA 5 have been redelineated into TEA 1 (Self-Response) or TEA 6 (Update Leave) areas, depending on data that resides within the MAF/TIGER database. This impacts the distribution of burden by TEA.

The final delineation into TEAs also includes updated counts of housing units within each TEA. These updated counts change the burden table from prior publications and increase the total burden. A map of the areas designated for the various TEAs is shown at the embedded link: TEA Viewer.

Group Quarters

Group quarters (GQ) are living quarters where people who are typically unrelated have group living arrangements and frequently are receiving some type of service. College/university student housing and nursing/skilled-nursing facilities are examples of GQs. Previous Notices have provided some background information but have not described fully the scope, flow of activities, collection instruments, burden estimates, and recent program updates for the GQ data collections and other special enumerations. For the sake of presenting a comprehensive picture these programs will be described in full in this Notice.

The 2020 Census Group Quarters operation will enumerate people living or staying in GQs and will provide an opportunity for people experiencing homelessness and receiving service at a service-based location, such as a soup kitchen, to be counted in the census. GQs are assigned different categories or type codes, and field procedures sometimes differ by categories or because of GQ facility privacy concerns. For example, procedures for colleges may differ from those for prisons or skilled nursing homes.

The 2020 Census GQ operation consists of the following components:

- GQ Frame Update.
- GQ Advance Contact.
- GQ Enumeration.
- Service-Based Enumeration.
- Military Enumeration.
- Maritime/Military Vessel (Shipboard) Enumeration.

GQ Frame Update

The 2020 Census GQ Frame Update program supports the 2020 Census enumeration frame development for the 2020 Census Group Quarters Enumeration. Building from the 2010 Census, the GQ frame incorporates updates from the 2020 Census Local Update of Census Addresses, Address Canvassing, and New Construction operations, as well as the Census Bureau's American Community Survey. Local Update of Census Addresses is described in **Federal Register** Notice ''Local Update of Census Addresses Operation,'' November 7, 2016, (Vol. 81, No. 215, pp 78109–78110, FR Doc. 2016–26778), while New Construction is described in **Federal Register** Notice ''2020 Census New Construction Program,'' October 5, 2018, (Vol. 83, No. 194, pp 50332–50334, FR Doc. 2018–21698). The Address Canvassing operation is part of the 2020 Census package and has been described in **Federal Register** Notice ''2020 Census,'' October 2, 2018, (Vol. 83 No. 181, pp 49535–49539, FR Doc. 21386).

In addition, the Count Review operation contributes addresses to the frame in advance of and during the census. The Count Review operation enhances the accuracy of the 2020 Census through remediating potential gaps in coverage by:

- Implementing an efficient and equitable process to identify and incorporate housing units that are missing from the Census Bureau's Master Address File (MAF).
- Identifying and including or correcting large group quarters, such as college/university student housing, that are missing from the MAF or geographically misallocated.

For this operation, Federal-State Cooperative for Population Estimates (FSCPE) representatives provide housing unit and GQ addresses from their state, and the state-submitted addresses are compared against the MAF. This operation does not create burden due to the relationship with FSCPE representatives under which these updates are provided. It is being described in this Notice in order to provide a complete picture of the frame development and enumeration activities for GQs.

There are two phases of review:

Phase 1

Housing Unit Review: Focuses on clusters (25+) of city-style addresses provided by states that are missing from the MAF.

GQ Review: Focuses on addresses provided by states for large GQs of particular types of GQs that are missing from or misallocated in the MAF.

Phase 2

Post-Enumeration GQ Review: After GQ enumeration is completed, the states will have the opportunity to review the enumeration status of GQs. For GQs that were not enumerated, FSCPE participants will have the opportunity to provide additional information to enable Late GQ Enumeration to revisit the GQ. FSCPEs will also have a final opportunity to add GQs that were not in the MAF but were operating on April 1, 2020.

GQ Advance Contact

The GQ Advance Contact has both in-office and in-field activities. The in-office GQ Advance Contact is an area census office activity through which Census Bureau staff call GQs identified in prior frame update phases to collect preferred contact dates, times, and methods of enumeration as well as expected population on Census Day. Census Bureau staff also discuss any special instructions from the GQ or concerns related to privacy, confidentiality, and security. For cases that staff are unable to contact or resolve during the in-office advance contact, field supervisors make an in-field visit to the GQs to collect this data.

GQ Enumeration

The GQ Enumeration covers all 50 states, the District of Columbia, and Puerto Rico. The GQ enumeration uses a variety of means to collect data in order to maximize efficiency. In-field enumeration methods are In-Person Interview, Facility Self-Enumeration,

Drop Off/Pick Up of Questionnaires, and Paper Response Data collection. The first three in-field methods of enumeration provide people residing in GQs with the Individual Census Questionnaire as the paper data collection instrument. Paper Response Data collection refers to an administrator at the GQ providing to the enumerator a spreadsheet or roster with enumeration data for all occupants. This closely resembles the eResponse Data Transfer described below.

A follow-up to ensure quality of enumerations is conducted. Area census office management staff assign cases selected for reinterview to clerks. The clerks use a reinterview form for each case in their reinterview workload and telephone each GQ to confirm that the enumerator visited the correct facility at the correct address. The reinterview also determines if the enumerator obtained a population count within a pre-defined acceptable range of the count provided by the GQ contact during the reinterview.

Reinterview responses are then compared to the initial responses. If a response is satisfactory, no further work is required. If a response is unsatisfactory, management will conduct an investigation into the cause. Some outcomes may result in additional data collection. If errors occurred or if falsification by the enumerator occurred, the case may be sent out for rework. Also, if falsification occurred, all cases worked by that enumerator will be reinterviewed.

GQ Enumeration—eResponse Data Transfer

The GQ eResponse leverages electronic data transfers from GQ administrators to the Census Bureau. Client-level data from systems maintained by GQ administrators will be transferred to a standardized Census Bureau secured system that will accept electronically submitted data in a standardized template. These data will be accepted in lieu of the use of the Individual Census Questionnaires if the data are deemed to be of sufficiently high quality and completeness.

Domestic Violence Shelters

Domestic violence shelters are facilities for those seeking safety from domestic violence. Domestic violence shelters are enumerated using special procedures and specially trained personnel. These special procedures include inviting members of the National Coalition Against Domestic Violence state coalitions to participate in the 2020 Census Group Quarters Frame Update Program to create a comprehensive and current address listing for domestic violence shelters. In order to protect the integrity of these locations, it will be necessary to have individuals designated to be the recipient of this information and to personally implement the procedures. Due to the sensitive nature of these places, the Census Bureau has assured the service providers that we will not disclose name, address, or any other type of information about the facility or the persons staying there to anyone other than on a ''need to know'' basis. These special procedures are designed to protect the safety and security of respondents being enumerated at these locations.

Service-Based Enumeration

The Service-Based Enumeration is specifically designed to approach people using service facilities because they may be missed during the traditional enumeration at housing units and group quarters. These service locations and outdoor locations include the following:

- Shelters: Shelters with sleeping facilities for people experiencing homelessness; shelters for children who are runaways, neglected, or experiencing homelessness.
- Soup kitchens.
- Regularly scheduled mobile food vans: Stops where regularly scheduled mobile food vans distribute meals.
- Targeted non-sheltered outdoor locations.

For the 2020 Census, the Service-Based Enumeration operation will be conducted over the three-day period that ends on April 1, 2020, Census Day. Service providers for shelters, soup kitchens, and regularly scheduled mobile food vans will be given the flexibility for their facility to be enumerated on any one of the three days. Targeted non-sheltered outdoor locations will be enumerated April 1, 2020. Field partnership specialists with local knowledge will help to identify non-sheltered outdoor locations during the time of the census.

Military Enumeration

Military installations are fenced, secured areas used for military purposes that include living quarters such as housing units and GQs for military, civilian, and non-Department of Defense-affiliated personnel. Residents living in housing units on military installations will have the opportunity to respond to the census through the internet or by mail or telephone (just like residents who do not live on installations). The enumeration methodology at all military GQs (barracks, military treatment facilities with assigned patients, military disciplinary barracks and jails, and military vessels) will be implemented under the GQ operation. Residents living in GQs will be enumerated during the GQ enumeration, using the same set of enumeration options.

Maritime/Military Vessel Enumeration

A maritime vessel is defined as a United States-flagged vessel with people who live or stay aboard for extended periods of time and sail from or to a United States port. A military vessel is defined as a United States Navy or United States Coast Guard vessel assigned to a home port in the United States. Maritime and Military Vessel Enumeration is a mailout-mailback operation to enumerate people who live or stay aboard and will not have any other opportunity to respond in time to be included in the 2020 Census. The response burden for military installations and maritime and military vessels is included in the GQ enumeration count.

2020 Census Enumeration at Transitory Locations

The goal of the 2020 Census Enumeration at Transitory Locations (ETL) operation is to enumerate individuals in occupied units at transitory locations who do not have a Usual Home Elsewhere. A Transitory Location (TL) is a location that is composed of living quarters where people are unlikely to live year-round, due to the transitory/temporary/impermanent nature of these living quarters. TLs include recreational vehicle parks, campgrounds, racetracks, circuses, carnivals, marinas, and hotels.

The 2020 Census ETL operation consists of the following components:

- TL Frame Update.
- TL Advance Contact.
- Enumeration.

TL Frame Update

The 2020 Census TL Frame Update is being implemented to ensure that the 2020 Census enumeration frame is complete and to provide an opportunity for enumeration of people residing at transitory locations. Building from the 2010 Census, the TL frame incorporates updates from the Local Update of Census Addresses, Address Canvassing, and New Construction operations. The design of the program ensures that the 2020 Census enumeration frame is updated by using specialized procedures to update the addresses for the following types of locations:

- Carnival, circus, and fair locations.
- Hotels and motels.

Carnival and circus research is a telephone solicitation of carnival and circus operators. Scheduled dates and corresponding addresses for shows that will occur during ETL enumeration will be collected. In addition, hotel and motel research is a telephone solicitation of hotels/motels to inquire if a hotel or motel has any rooms occupied by people who live or stay there most of the time or if that hotel/motel is used entirely to house people experiencing homelessness.

TL Advance Contact

The TL Advance Contact has both in-office and in-field activities. The in-office TL Advance Contact is an area census office activity in which TLs identified in frame update steps are called on the telephone. Address verification, TL type, number of spaces or units at the TL, and other advance information to support the ETL operation in the field will be collected. For cases that staff are unable to contact or resolve during the in-office advance contact, field supervisors make an in-field visit to the GQs to collect this data.

TL Enumeration

The 2020 Census ETL operation will cover all 50 states, the District of Columbia, and Puerto Rico. Enumerators will canvass a transitory location in one visit to enumerate at occupied transitory units. Respondents at a transitory location who do not have a usual home elsewhere are counted where they are enumerated in ETL.

Evaluations and Experiments

The Census Bureau has not prepared a separate package for the Evaluations and Experiments program, as was done in past censuses. For the 2020 Census, these evaluations and experiments are described as either a revision to the 2020 Census package within this Notice, to the Census Bureau's 2020 Census Post-Enumeration Survey Independent Listing Operation (covered under OMB approval #0607–1009), or within the Generic Clearance for Census Bureau Field Tests and Evaluations (covered under OMB approval #0607–0971).

For the 2020 Census, operational assessments, quality profiles, evaluations, and experiments are all produced within the Evaluations and Experiments operation. Operational Assessments are designed to document final volumes, rates, and costs for individual operations or processes using data from production files and activities and information collected from debriefings and lessons learned. They do not include analysis. Operational assessments report out on planned versus actual variances as they relate to budget, schedule, and workloads (production and training) and on meeting performance success criteria. Depending on the operation, they may include frequency distributions and standard demographic or address tables. Quality profiles are designed to provide the results from the quality assurance program for an operation. No additional data collection is required for the purpose of creating the operational assessments or the quality profiles. They are described here for the purpose of providing the complete scope of the Evaluations and Experiments operation.

The evaluations and experiments performed during a census represent the initial plans for updating and improving the subsequent census. While testing continues throughout the decade, certain aspects can only be tested within a decennial census environment, as public awareness of the census and of the responsibility to respond is often a key factor of the test. Evaluations are designed to analyze, interpret, and synthesize the effectiveness and efficiencies of census components and their impact on data quality and coverage using data collected from census operations, processes, systems, and auxiliary data collections. Experiments provide quantitative or qualitative results for tests that occur during a decennial census. Since they occur in an environment of optimal census awareness, results simulate more closely to what experimental treatments would yield in a full production application. Experiments inform planning of future decennial censuses, so 2020 Census experiments will focus on planning toward a 2030 Census.

For the purposes of fully defining the Evaluations and Experiments operation, specific assessments, evaluations, and experiments planned for the 2020 Census are documented in the table below. Some evaluations and experiments shown in italics are described within other OMB approval packages, as noted in the footnotes to the table.

2020 Census Operational Assessments

Archiving Operational Assessment
Census Questionnaire Assistance Operational Assessment
Content and Forms Design Operational Assessment
Coverage Improvement Operational Assessment
Count Question Resolution Operational Assessment
Decennial Logistics Management—Logistics Management Support Operational Assessment
Decennial Logistics Management—Space Acquisition and Lease Management Operational Assessment
Decennial Service Center Operational Assessment
Demographic Analysis Operational Assessment
Enumeration at Transitory Locations Advance Contact Operational Assessment
Enumeration at Transitory Locations Operational Assessment
Evaluations and Experiments Operational Assessment
Federally Affiliated Count Overseas Operational Assessment
Field Infrastructure—Field Office Administration and Payroll Operational Assessment
Field Infrastructure—Recruiting, Onboarding, and Training Operational Assessment
Forms Printing and Distribution Operational Assessment
Geographic Partnership Programs Operational Assessment
Group Quarters Advance Contact Assessment Report
Group Quarters Enumeration and Military Enumerations Assessment
In-Field Address Canvassing Operational Assessment
In-Office Address Canvassing Operational Assessment
Internet Self-Response Operational Assessment
Integrated Partnership and Communications Contract Assessment
Integrated Partnership and Communications Operational Assessment
Island Areas Censuses Operational Assessment
Item Nonresponse Rates Assessment Study
Language Services Operational Assessment
Local Update of Census Addresses Operational Assessment
Maritime Vessel Enumeration Report

New Construction Operational Assessment
Non-ID Operational Assessment
Nonresponse Followup Operational Assessment
Paper Data Capture Operational Assessment
Post-Enumeration Survey Sampling and Estimation Operational Assessment
Post-Enumeration Survey Field Operations Initial Listing and Initial Housing Unit Followup Operational Assessment
Post-Enumeration Survey Field Operations Person Interview and Person Followup Operational Assessment
Post-Enumeration Survey Field Operations Final Housing Unit Followup Operational Assessment
Post-Enumeration Survey Matching Initial Housing Unit Matching Operational Assessment
Post-Enumeration Survey Matching Person Matching Operational Assessment
Post-Enumeration Survey Matching Final Housing Unit Matching Operational Assessment
Redistricting Data Program Operational Assessment
Research to Support the Integrated Partnership and Communications Program
Response Processing Operational Assessment
Response Rates Assessment Study
Self-Response Quality Assurance Operational Assessment
Service-Based Enumeration Assessment Report
Systems and Applications in the 2020 Census (Security, Privacy, and Confidentiality)
Update Enumerate Operational Assessment
Update Leave Operational Assessment

2020 Census Quality Control (QC)

Quality Control Study Plan for Listing Operations
Quality Control Study Plan for Enumeration Operations
Address Canvassing QC Results
Update Leave QC Results
Nonresponse Followup QC Results
Person Interview QC Results
Independent Listing QC Results

2020 Census evaluations and experiments	Additional data collected
Evaluations	
Reengineered Address Canvassing • Estimate certain types of errors that can occur during In-Field Address Canvassing. Investigate effectiveness of In-Office Address Canvassing and Interactive Review. Compare costs of reengineered Address Canvassing to 100 percent In-Field Address Canvassing. • Evaluate In-Field Address Canvassing listers by including false addresses (salting) and suppressing a sample of valid addresses. • *Evaluate In-Office and In-Field Address Canvassing using Post-Enumeration Survey listing results*[1].	Salted and suppressed addresses within Address Canvassing: Same burden estimate because listers should delete incorrect addresses (which does not involve contact) and add missing addresses (which is the same burden as for valid addresses).
Administrative Record Dual-System Estimation Determine whether dual system estimates could be generated without conducting an independent post-enumeration survey, using Administrative Records.	None.
Evaluating Privacy and Confidentiality Concerns of Complete and Partial Respondents by Mode[2] Capture respondents' concerns about privacy and confidentiality during the census, particularly with respect to the internet response option and administrative records use in a census environment.	NA.
The Undercount of Young Children: A Qualitative Evaluation of Census Materials and Operations[2] Conduct focus groups and cognitive interviews to identify where existing roster questions and procedures are failing and how to improve them.	NA.
Research on Hard to Count Populations: Non-English Speakers and Complex Household Residents, including Undercount of Children Research[2]. Assess NRFU interviews in areas associated with potential undercoverage and non-English speaking households. In addition, administer a specialized enumerator training module to a sample of Spanish-speaking bilingual enumerators to evaluate its impact.	NA.
Analysis of Census Internet Self-Response Paradata by Language Examine 2020 Census web paradata and assess by language	None.
Group Quarters Advance Contact: Refining Classification of College or University Student Housing[2] Explore whether refined classification used in the 2020 Census results in more accurately identifying privately owned college housing.	NA.
Experiments	
Extending the Census Environment to the Mailing Materials Test effect on self-response rates of wearable, nonmonetary mailing inserts that promote the 2020 Census as well as mailing materials that incorporate elements and images developed by the 2020 Census communications campaign. In addition, test the use of an every door direct mail piece.	None.

2020 Census evaluations and experiments	Additional data collected
Optimization of Self-Response in the 2020 Census Experiment ..... Evaluate impacts of the mailing strategy and the influence of the internet response option by (1) mailing a sample of housing units a modified version of 2010 Census materials with no promotion of the internet response option on a schedule that resembles what occurred during the 2010 Census, (2) mailing another sample of housing units a modified version of the 2020 Census materials with no promotion of the internet response option, (3) switching the planned mail contact strategy between internet choice and internet first for another sample of housing units. In addition, test the effectiveness of communications and partnership activities by not mailing and 2020 Census materials to a sample of households.	None.
Real-Time 2020 Census Administrative Record Census Simulation ..... Compare person-level, housing unit-level, and hybrid approaches to conducting an administrative record census.	None.

[1] 2020 Census Post-Enumeration Survey Independent Listing Operation (OMB approval #0607–1009).
[2] Generic Clearance for Census Bureau Field Tests and Evaluations (OMB approval #0607–0971).

Affected Public: Individuals or Households.

Frequency: Once every 10 years.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Section 141 and 193.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection, identified by Docket number OMB–2018–0004, may be submitted to the Federal e-Rulemaking portal: *https://www.regulations.gov* within 30 days of publication of this notice. All comments received are part of the public record and will be posted to *http://www.regulations.gov* for public viewing. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–19312 Filed 9–6–19; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

Agency: U.S. Census Bureau.

Title: Generic Clearance for Questionnaire Pretesting Research.

OMB Control Number: 0607–0725.

Form Number(s): Various.

Type of Request: Regular.

Number of Respondents: 5,500 respondents annually.

Average Hours per Response: 1 hour.

Burden Hours: 5,500 hours annually.

Needs and Uses: The information collected in this program of developing and testing questionnaires will be used by staff from the Census Bureau and sponsoring agencies to evaluate and improve the quality of the data in the surveys and censuses that are ultimately conducted.

Affected Public: Individuals or households, businesses or other for profit, farms.

Frequency: TBD.

Respondent's Obligation: Voluntary.

Legal Authority: Data collection for this project is authorized under the authorizing legislation for the questionnaire being tested. This may be Title 13, Sections 131, 141, 161, 181, 182, 193, and 301 for Census Bureau sponsored surveys, and Title 13 and 15 for surveys sponsored by other Federal agencies. We do not now know what other titles will be referenced, since we do not know what survey questionnaires will be pretested during the course of the clearance.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–19349 Filed 9–6–19; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–33–2019]

Foreign-Trade Zone (FTZ) 29—Louisville, Kentucky; Authorization of Production Activity; Hitachi Automotive Systems Americas, Inc.; (Automotive Components); Harrodsburg and Berea, Kentucky

On May 2, 2019, Hitachi Automotive Systems Americas, Inc. submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 29F, in Harrodsburg and Berea, Kentucky.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (84 FR 20091–20092, May 8, 2019). On September 3, 2019, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: September 3, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–19422 Filed 9–6–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–54–2019]

Foreign-Trade Zone (FTZ) 78—Nashville, Tennessee; Notification of Proposed Production Activity; Lasko Products, LLC (Small Consumer Appliances—Fans, Heaters, Humidifiers); Franklin, Tennessee

Lasko Products, LLC (Lasko), submitted a notification of proposed production activity to the FTZ Board for its facilities in Franklin, Tennessee. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on August 21, 2019.

The applicant will be submitting a separate application for FTZ designation at the company's facilities under FTZ 78. The facilities are used for the production of small consumer appliances. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Lasko from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status materials/components noted below, Lasko would be able to choose the duty rates during customs entry procedures that apply to box fans, pedestal fans, window fans, fan blowers, floor and wall heaters, evaporative humidifiers, and, furnace humidifiers (duty rate ranges between 2% and 4.7%). Lasko would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include: Fan motors; plastic fan handles; metal or plastic fan guards; copper wire harnesses; copper wire cordsets; plastic fan knobs; steel screws; humidifier springwire clamps; humidifier orifice inserts; humidifier water nozzles; furnace humidifiers; transmitters; fridge ionizers; humidistats with rocker switches; humidifier box assemblies; capacitors for electronic transformers; fan ionizers; transformers; plastic fan ornaments; plastic box fan feet sets; aluminum name plates; plastic water pans; plastic valves; lower pumps; humidistat kits; humidifier kits; and, speed controllers (duty rate ranges from duty free to 6.7%). The request indicates that certain materials/components are subject to special duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is October 21, 2019.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website; which is accessible via *www.trade.gov/ftz.*

For further information; contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: September 3, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–19419 Filed 9–6–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–107–2019]

Approval of Subzone Status; HP International Trading B.V. (Puerto Rico Branch), LLC Aguadilla, Puerto Rico

On June 12, 2019, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Puerto Rico Trade and Export Company (now, Department of Economic Development and Commerce), grantee of FTZ 61, requesting subzone status subject to the existing activation limit of FTZ 61, on behalf of HP International Trading B.V. (Puerto Rico Branch), LLC, in Aguadilla, Puerto Rico.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (84 FR 28268, June 18, 2019). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 61V was approved on September 3, 2019, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 61's 1,821.07-acre activation limit.

Dated: September 3, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–19421 Filed 9–6–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–35–2019]

Foreign-Trade Zone (FTZ) 185—Front Royal, Virginia; Authorization of Production Activity Merck & Co., Inc. (Pharmaceuticals) Elkton, Virginia

On May 3, 2019, Merck & Co., Inc. submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 185, in Elkton, Virginia.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (84 FR 21326, May 14, 2019). On September 3, 2019, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: September 3, 2019.

Andrew McGilvray

Executive Secretary.

[FR Doc. 2019–19420 Filed 9–6–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–108–2019]

Approval of Subzone Status; Puerto Rico Wood Treating Industries, Inc.; Carolina, Puerto Rico

On June 12, 2019, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Puerto Rico Trade and Export Company (now, Department of Economic Development and Commerce), grantee of FTZ 61, requesting subzone status subject to the existing activation limit of FTZ 61, on behalf of Puerto Rico Wood Treating Industries, Inc., in Carolina, Puerto Rico.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (84 FR 28268, June 18, 2019).

The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 61W was approved on September 3, 2019, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 61's 1,821.07-acre activation limit.

Dated: September 3, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–19423 Filed 9–6–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of: Sammy Smith, 1 Maple Avenue, Apartment 403, Patchogue, NY 11772.

On July 9, 2018, in the U.S. District Court for the Eastern District of New York, Sammy Smith (''Smith'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Smith was convicted of violating Section 38 of the AECA by knowingly and willfully attempting to export from the United States to Turkey firearms components designated as defense articles on the United States Munitions List, namely, Glock pistol upper receivers, barrels and recoil springs, Lone Wolf pistol upper receivers with matching barrels, and a Beretta PX4 pistol short barrel, without the required U.S. Department of State licenses. Smith was sentenced to two months in prison, six months of supervised release, and an assessment of $100.

The Export Administration Regulations (''EAR'' or ''Regulations'') are administered and enforced by the U.S. Department of Commerce's Bureau of Industry and Security (''BIS'').[1] Section 766.25 of the Regulations provides, in pertinent part, that the ''Director of [BIS's] Office of Exporter Services, in consultation with the Director of [BIS's] Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of . . . section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d).[2] In addition, pursuant to Section 750.8 of the Regulations, BIS's Office of Exporter Services may revoke any BIS-issued licenses in which the person had an interest at the time of his/her conviction.[3]

BIS has received notice of Smith's conviction for violating Section 38 of the AECA, and has provided notice and an opportunity for Smith to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Smith.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Smith's export privileges under the Regulations for a period of seven years from the date of Smith's conviction. I have also decided to revoke any BIS-issued license in which Smith had an interest at the time of his conviction.

Accordingly, it is hereby *ordered:*

First, from the date of this Order until July 9, 2025, Sammy Smith, with a last known address of 1 Maple Avenue, Apartment 403, Patchogue, NY 11772, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2019). The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. 4601–4623 (Supp. III 2015) (''EAA''), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 14, 2019 (84 FR 41,881 (Aug. 15, 2019)), continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq.* (2012) (''IEEPA''). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

[2] *See also* Section 11(h) of the EAA, 50 U.S.C. 4610(h) (Supp. III 2015); Sections 1760(e) and 1768 of ECRA, 50 U.S.C. 4819 and 4826 (Aug. 13, 2018); and note 1, *supra.*

[3] *See* notes 1 and 2, *supra.*

organization related to Smith by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Smith may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Smith and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until July 9, 2025.

Issued this 30th day of August, 2019.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2019–19416 Filed 9–6–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with July anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

DATES: Applicable September 9, 2019.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Commerce has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with July anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify Commerce within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://access.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on Commerce's service list.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments within five days after the deadline for the initial comments.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act, the following guidelines regarding collapsing of companies for purposes of respondent selection will apply. In general, Commerce has found that determinations concerning whether particular companies should be ''collapsed'' (*e.g.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*e.g.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where Commerce considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[2] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial responses to section D of the questionnaire.

Separate Rates

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[4] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on Commerce's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to Commerce no later than 30 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than July 31, 2020.

	Period to be reviewed
Antidumping Duty Proceedings	
BELGIUM: Citric Acid and Certain Citrate Salts, A–423–813	1/8/18–6/30/19
S.A. Citrique Belge N.V.	
CANADA: Polyethylene Terephthalate Resin,[5] A–122–855	5/1/18–4/30/19
COLOMBIA: Citric Acid and Certain Citrate Salts, A–301–803	1/8/18–6/30/19
Sucroal S.A.	
INDIA: Fine Denier Polyester Staple Fiber, A–533–875	1/5/18–6/30/19
Reliance Industries Limited.	
INDIA: Polyethylene Terephthalate (PET) Film, A–533–824	7/1/18–6/30/18
Ester Industries Limited.	
Garware Polyester Ltd.	
Jindal Poly Films Limited.[6]	
MTZ Polyesters Ltd.	

[3] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[4] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
Polyplex Corporation Ltd.	
SRF Limited.[7]	
Uflex Ltd.	
Vacmet India Limited.	
ITALY: Certain Pasta, A–475–818	7/1/18–6/30/19
Aldino S.r.l.	
F. Divella S.p.A.	
Ghigi 1870 S.p.A.	
Industria Alimentare Colavita, S.p.A.	
La Molisana S.p.A.	
Liguori Pastificio dal 1820 S.p.A.	
Newlat Food S.p.A.	
Pastificio Fratelli DeLuca S.r.l.	
Pasta Lensi, S.r.l.	
Pasta Zara S.p.A.	
Pasta Berruto S.p.A.	
Pastificio Di Martino Gaetano & Flli S.p.A.	
Pastificio Rey S.r.L.	
Rummo S.p.A.	
San Remo Macaroni Company.	
Tesa S.r.l.	
Valdigrano di Flavio Pagani S.r.L.	
MALAYSIA: Certain Steel Nails, A–557–816	7/1/18–6/30/19
Astrotech Steels Private Limited.	
Chia Pao Metal Co., Ltd.	
Come Best (Thailand) Co., Ltd.	
Inmax Industries Sdn. Bhd.	
Inmax Sdn. Bhd.	
Jinhai Hardware Co. Ltd.	
Kerry-Apex (Thailand) Co., Ltd.	
Region International Co., Ltd.	
Region System Sdn. Bhd.	
Tag Fasteners Sdn. Bhd.	
Trinity Steel Private Limited.	
Vien Group SDN. BHD.	
WWL India Private Ltd.	
OMAN: Certain Steel Nails, A–523–808	7/1/18–6/30/19
Al Kiyumi Global LLC.	
Astrotech Steels Private Ltd.	
Geekay Wires Limited.	
Modern Factory For Metal Products.	
Oman Fasteners LLC.	
Trinity Steel Private Limited.	
WWL India Private Ltd.	
REPUBLIC OF KOREA: Certain Steel Nails, A–580–874	7/1/18–6/30/19
AAA Line International (China).	
Ansing Rich Tech & Trade Co. Ltd.	
Astrotech Steels Private Limited.	
Baoding Jimaotong Imp. & Exp. . Co., Ltd.	
Beijing Catic Industry Ltd.	
Beijing Jin Heung Co. Ltd.	
Big Mind Group Co, Ltd.	
Bonuts Hardware Logistics.	
Cheng Ch International Co Ltd.	
Chiapao Metal Co., Ltd.	
China Staple Enterprise Co. Ltd.	
Daejin Steel Co., Ltd.	
Daejin Co., Ltd.	
Dezhou Xinjiayuan Hardware Products Co., Ltd.	
Dezhou Hualude Hardware Products Co., Ltd.	
Dong Yang Diecasting Co., Ltd.	
Double-Moon Hardware Products Co., Ltd.	
Duo-Fast Korea Co., Ltd.	
Duo-Fast Co., Ltd.	
ECI Taiwan Co., Ltd.	
Eco Steel Co., Ltd.	
Eco-Friendly Floor Ltd.	
Ejem Brothers Limited.	
Empac International Ltd.	
Fastgrow International Co.	
FASTCO (Shanghai) Trading Co., Ltd.	
GD.CP International Co. Ltd.	
Gdcp Richmax International Ltd.	
Geekay Wires Limited.	

	Period to be reviewed
Geekay Wires Ltd.	
Grace International Co Ltd.	
GWP Industries (Tianjin) Co., Ltd.	
Hai Sheng Xin Group Co., Ltd	
Hanbit Logistics Co., Ltd.	
Hanmi Staple Co., Ltd.	
Hebei Minmetals Co., Ltd.	
Hebei Cangzhou New Century Foreign Trade Co., Ltd.	
Hebei Jinsidun Trade Co. Ltd.	
Hebei Minghao Import Export Co Li.	
Hengtuo Metal Products Co Ltd.	
Hong Kong Neos Technology Co.	
Hongkong Shengshi Metal Products Co Ltd.	
Hongyi Hardware Products Co., Ltd.	
Hoyi Plus Co Ltd.	
Inmax Industries Sdn. Bhd.	
Inmax Sdn. Bhd.	
JCD Group Co., Limited.	
JCD Group Co., Ltd.	
Je-il Wire Production Co., Ltd.	
Jeil Tacker Co. Ltd.	
Jinhai Hardware Co., Ltd.	
Jinheung Steel Corporation.	
Jinsco International Corp.	
Koram Inc.	
Koram Steel Co., Ltd.	
Korea Wire Co., Ltd.	
Leling Taishan Artificial Turf Industry.	
Liang Chyuan Industrial Co., Limited.	
Liang Chyuan Ind. Co., Lmt.	
Liaocheng Minghui Hardware Products.	
Linyi Double-Moon Hardware Products Co., Ltd.	
Linyi Flying Arrow Imp. & Exp. Ltd.	
Max Co., Ltd.	
M & M Industries Co., Ltd.	
Macropower Industrial Inc.	
Mingguang Ruifeng Hardware Products Co., Ltd.	
Modern Factory for Metal Products.	
MPROVE Co., Limited.	
Nielsen Bainbridge LLC.	
Nailtech Co. Ltd.	
Nailtech Co., Limited.	
Neo Gls.	
Paslode Co., Ltd.	
Peace Industries, Ltd.	
Promising Way (Hong Kong) Limited.	
Pro-Team Coil Nail Enterprise Inc.	
Qingdao Ant Hardware Manufacturing Co., Ltd.	
Qingdao Ant Hardware Manufacturing Co., Limited.	
Qingdao Cheshire Trading Co. Ltd.	
Qingdao D&L Group Ltd.	
Qingdao D&O Houseware Co. Ltd.	
Qingdao D&O Houseware Co. Limited.	
Qingdao Hongyuan Nail Industry Co. Ltd.	
Qingdao JCD Machinery Co., Ltd.	
Qingdao Jisco Co., Ltd.	
Qingdao Meijialucky Industry and Commerce Co., Ltd.	
Qingdao Mst Industry and Commerce Co., Ltd.	
Qingdao Sunrise Metal Products Co. Ltd.	
Qingdao TianHeng Xiang metal Products Co., Ltd	
Qingdao Tiger Hardware Co., Ltd.	
Qingdao Yutong Concrete Hardware Co., Ltd.	
Quick Advance Inc.	
Region Industries Co., Ltd.	
Sam Un Co. Ltd.	
Shandong Oriental Cherry Hardware Import & Export Co., Ltd.	
Shandong Oriental Cherry Hardware Group Co. Ltd.	
Shandong Qingyun Hongyi Hardware Products Co., Ltd.	
Shanghai Shenda Imp. & Exp. Co., Ltd.	
Shanghai Zoonlion Industrial Co., Ltd.	
Shanghai Zoonlion Industrial Co., Limited.	
Shanxi Fasteners & Hardware Products Co., Ltd.	
Shanxi Pioneer Hardware Industry Co., Ltd.	
Shanxi Tianli Industries Co., Ltd.	

	Period to be reviewed
Shenzhen Jie Ding Sheng Trading Co., Ltd.	
Sherilee Co Ltd.	
Smile Industries Ltd.	
Suntec Industries Co., Ltd.	
Theps Co., Ltd.	
Tianjin Coways Metal Products Co.	
Tianjin Hongli Qiangsheng Imp. & Exp.	
Tianjin Hweschun Fasteners Manufacturing Co. Ltd.	
Tianjin Jinchi Metal Products Co., Ltd.	
Tianjin Jinghai County Hongli Industry and Business.	
Tianjin International Trade Co. Ltd.	
Tianjin Lituo Imp&Exp Co., Ltd.	
Tianjin Liweitian Metal Technology.	
Tianjin Zhonglian Metals Ware Co. Ltd.	
Tianjin Zhonglian Times Technology.	
Unicorn (Tianjin) Fasteners Co., Ltd.	
United Company for Metal Products.	
Weifang Wenhe Pneumatic Tools Co., Ltd.	
Wulian Zhanpeng Metals Co., Ltd.	
Xi'an Metals and Minerals Imp. Exp. Co., Ltd.	
Xinjiayuan International Trade Co.	
Youngwoo Fasteners Co., Ltd.	
Youngwoo (Cangzhou) Fasteners Co., Ltd.	
You-One Fastening Systems.	
Zhaoqing Harvest Nails Co. Ltd.	
Zhanghaiding Hardware Co., Ltd.	
Zhejiang Best Nail Industrial Co., Ltd.	
Zon Mon Co Ltd.	
REPUBLIC OF KOREA: Corrosion-Resistant Steel Products, A–580–878	7/1/18–6/30/19
Ajin H and S Co., Ltd.	
Anjeon Tech Co., Ltd.	
Benion Corp.	
Daeho P C Co., Ltd.	
Dongbu Incheon Steel Co., Ltd.	
Dongbu Steel Co., Ltd.	
Dongkuk Steel Mill Co., Ltd.	
GS Global Corp.	
Hanwa (Korea) Co., Ltd.	
Hoa Sen Group.	
Hyosung Corporation.	
Hyundai Steel Company.	
Kima Steel Corporation Ltd.	
Korea CNC Co., Ltd.	
Kyoungdo Steel Co., Ltd.	
Mitsubishi Corp. (Korea) Ltd.	
Nippon Steel and Sumikin Sales Vietnam Co., Ltd.	
POSCO.	
POSCO Coated & Color Steel Co., Ltd.	
POSCO Daewoo Corporation.	
POSCO International Corporation.	
Roser Co. Ltd.	
Samsung C&T Corp.	
Samsung Corp.	
SeAH Coated Metal Corp.	
SeAH Steel.	
Seun Steel.	
SK Networks Co., Ltd.	
Ton Dong A Corporation.	
Young Steel Co., Ltd.	
SOCIALIST REPUBLIC OF VIETNAM: Certain Steel Nails, A–552–818	7/1/18–6/30/19
Atlantic Manufacure Inc.	
Chia Pao Metal Co., Ltd.	
CS Song Thuy.	
Easylink Industrial Co., Ltd.	
Expeditors Vietnam Company Limited.	
Inmax Industries SDN. BHD.	
Jinhai Hardware Co., Ltd.	
Le Phuong Trading Import Export.	
Long Nguyen Trading & Service Co., Ltd.	
Region Industries Co., Ltd.	
Rich State Inc.	
Sam Hwan Vina Co., Ltd.	
Thai Bao Im-Ex Corporation Company.	
Truong Vinh Ltd.	

	Period to be reviewed
United Nail Products Co. Ltd.	
Vinalink O B Lu Yen Linh.	
SPAIN: Finished Carbon Steel Flanges,[8] A–469–815	6/1/18–5/31/19
Friedrich Geldbach Gmbh.	
TAIWAN: Certain Steel Nails, A–583–854	7/1/18–6/30/19
All Precision Co., Ltd.	
Aplus Pneumatic Corp.	
Astrotech Steels Private Ltd.	
Basso Industry Corporation.	
Bonuts Hardware Logistic Co.	
Challenge Industrial Co., Ltd.	
Cheng Ch International Co. Ltd.	
Chia Pao Metal Co. Ltd.	
China Staple Enterprise Corporation.	
Chite Enterprises Co., Ltd.	
Create Trading Co., Ltd.	
Crown Run Industrial Corp.	
Da Yong Enterprise Co., Ltd.	
Daejin Steel Company Ltd.	
De Fasteners Inc.	
Dragon Iron Factory Co., Ltd.	
Easylink Industrial Co., Ltd.	
ECI Taiwan Co., Ltd.	
Encore Green Co., Ltd.	
Faithful Engineering Products Co. Ltd.	
Fastenal Asia Pacific Ltd.	
Four Winds Corporation.	
Gaun Ting Technology Co., Ltd.	
General Merchandise Consolidators.	
Ginfa World Co. Ltd.	
Gloex Inc.	
Home Value Co., Ltd.	
Hor Liang Industrial Corp.	
Hoyi Plus Co., Ltd.	
Integral Building Products Inc.	
Interactive Corp.	
J C Grand Corporation.	
Jade Shuttle Enterprise Co., Ltd.	
Jau Yeou Industry Co., Ltd.	
Jen Ju Enterprise Co., Ltd.	
Jet Crown International Co., Ltd.	
Jiajue Industrial Co. Ltd.	
Jinhai Hardware Co., Ltd.	
Jinsco International Corp.	
Ko's Nail Inc.	
Korea Wire Co., Ltd.	
Liang Chyuan Industrial Co., Ltd.	
Linkwell Industry Co., Ltd.	
Locksure Inc.	
Long Ngyuen Trading & Service Co.	
Lu Kang Hand Tools Industrial Co., Ltd. (Prommer).	
Master United Corp.	
Maytrans International Corp.	
Ming Cheng Hardware Co., Ltd.	
Nailermate Enterprise Corporation.	
Nailtech Co., Ltd.	
Newrex Screw Corporation.	
NS International Ltd.	
Panther T&H Industry Co.	
Patek Tool Co., Ltd.	
Point Edge Corp.	
President Industrial Inc.	
Pro-Team Coil Nail Enterprise Inc./PT Enterprise Inc.[9]	
Quick Advance Inc.	
Region Industries Co., Ltd.	
Region International Co. Ltd.	
Region System Sdn. Bhd.	
Romp Coil Nail Industries Inc.	
Shinn Chuen Corp.	
Six-2 Fastener Imports Inc.	
Taiwan Shan Yin Int'l Co. Ltd.	
Taiwan Wakisangyo Co. Ltd.	
Techart Mechanical Corporation.	
Test-Rite Int'l Co., Ltd.	

	Period to be reviewed
Theps Co., Ltd.	
Trans-Top Enterprise Co., Ltd.	
Trim International Inc.	
U-Can-Do Hardware Corp.	
UJL Industries Co., Ltd.	
Unicatch Industrial Co. Ltd.	
VIM International Enterprise Co., Ltd.	
Wattson Fastener Group Inc.	
Wictory Co. Ltd.	
Yeh Fong Hsin.	
Yehdyi Enterprise Co., Ltd.	
Yu Chi Hardware Co., Ltd.	
Zhishan Xing Enterprise Co., Ltd.	
Zon Mon Co. Ltd.	
TAIWAN: Corrosion-Resistant Steel Products, A–583–856	7/1/18–6/30/19
Hoa Sen Group.	
Nippon Steel.	
Prosperity Tieh Enterprise Co., Ltd.	
Sheng Yu Steel Co., Ltd.	
Sumikin Sales Vietnam Co., Ltd.	
Synn Industrial Co., Ltd.	
Ton Dong A Corporation.	
Yieh Phui Enterprise Co., Ltd.	
TAIWAN: Polyethylene Terephthalate (PET) Film, A–583–837	7/1/18–6/30/19
Nan Ya Plastics Corporation.	
Shinkong Materials Technology Corporation (a/k/a Shinkong Materials Technology Co.).	
THAILAND: Citric Acid and Certain Citrate Salts, A–549–833	1/1/18–6/30/19
COFCO Biochemical (Thailand) Co., Ltd.	
Niran (Thailand) Co., Ltd.,	
Sunshine Biotech International Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Aluminum Extrusions,[10 11] A–570–967	5/1/18–4/30/19
Acro Import and Export Co.	
Birchwoods (Lin'an) Leisure Products Co., Ltd.	
Changshu Changsheng Aluminum Products Co., Ltd.	
Changshu Changshen Aluminum Products Co., Ltd.	
China Square Industrial Ltd.	
Classic & Contemporary Inc.	
Cosco (JM) Aluminum Development Co. Ltd.	
Ltd Global Hi-Tek Precision Co. Ltd.	
Justhere Co., Ltd.	
Kanal Precision Aluminum Product Co., Ltd.	
Kartlon Aluminum Company Ltd.	
MAAX Bath Inc.	
Shanghai Automobile Air-Conditioner Accessories Co Ltd.	
Tianjin Jinmao Import & Export Corp., Ltd.	
Xinchang Yongqiang Air Conditioning Accessories Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Carbon Steel Butt-Weld Pipe Fittings, A–570–814	7/1/18–6/30/19
Solidbend Fittings & Flanges Sdn. Bhd.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Cold-Rolled Steel Flat Products, A–570–029	7/1/18–6/30/19
China Steel Sumikin JSC.	
Dai Thien Loc Corp.	
Hoa Phat Steel Pipe.	
Hoa Sen Group.	
Maruichi Sun Steel Corporation.	
Nam Kim Steel.	
NS BlueScope.	
POSCO Vietnam.	
Southern Steel Sheet Co.	
Ton Dong A Corporation.	
Vina One.	
VNSteel - Phu My Flat Steel.	
THE PEOPLE'S REPUBLIC OF CHINA: Circular Welded Carbon Quality Steel Pipe, A–570–910	7/1/18–6/30/19
A&T Industry Co., Ltd.	
Allied Transport System Inc.	
AM Global Shipping Lines.	
Ample Star Enterprises.	
Apex Maritime (Tianjin) Co., Ltd.	
Artson Fuzhou Co., Ltd.	
Baoshan Iron & Steel Co., Ltd.	
Bazhou Dongsheng Hot-Dipped Galvanized Steel Pipe Co., Ltd.	
Bazhou Zhuofa Steel Pipe Co. Ltd.	
Beijing Bell Plumbing Manufacturing Ltd.	
Beijing Jia Mei Ao Trade Limited.	
Beijing Jinghua Shunqi Trading Co., Ltd.	

	Period to be reviewed
Beijing Kaishengao Import & Export.	
Beijing Kang Jie Kong International Cargo Agent Co., Ltd.	
Beijing Sai Lin Ke Hardware Co., Ltd.	
Beijing Zhongxingtong Technology Company Limited.	
Benxi Northern Pipes Co., Ltd.	
Bestar Steel Co., Ltd.	
Cangzhou Huasheng Modern Casting Company Limited.	
Chaoteng Group Ltd.	
CI Consolidators Services Limited.	
Cnooc Kingland Pipeline Co., Ltd.	
Dalian Brollo Steel Tubes Ltd.	
Dalian Shipbuilding Import Export Company.	
DSC Quanzhou Dongshan Machine Co., Ltd.	
Etco International Trading Co., Ltd.	
Giant-Move Equipment Co., Ltd.	
Feel Light Co., Ltd.	
Guangdong Walsall Steel Pipe Industrial Co., Ltd.	
Guangzhou Juyi Steel Pipe Co., Ltd.	
Hainan Standard Stone Company Ltd.	
Hangzhou Chaoteng International.	
Hangzhou Shunlan Trading Company Limited.	
Hebei Machinery Import & Export Co., Ltd.	
Hebei Metals & Engineering Products Co., Ltd.	
Hefei Ziking Steel Pipe Co., Ltd.	
Hengshui Jinghua Steel Pipe Co., Ltd.	
Hengyang Valin Steel Tube Group Trading Co., Ltd.	
Herede Engineering Ltd.	
Hubei Xin Yegang Special Tube Co.	
Hunan Henyang Steel Tube (Group) Co., Ltd.	
Hulado City Steel Pipe Industrial Co., Ltd.	
Jiangsu Changbao Steel Tube Co., Ltd.	
Jiangsu Guoqiang Zinc-Plating Industrial Company, Ltd.	
Jiangsu Hen-Yuan Garden Supplies Company Ltd.	
Jiangsu Yulong Steel Pipe Co., Ltd.	
Jiangsu Zhongheng Dyeing & Finishing Co., Ltd.	
Jiangyin Jianye Metal Products Co., Ltd.	
Jinan Meide Casting Co. Ltd.	
Jinan Meide Piping Technology Company Ltd.	
Kun Shan Sandia Special Steel Pipe Co., Ltd.	
Kunshan City Yuan Han Electronic Co., Ltd.	
Kunshan Lets Win Steel Machinery Co., Ltd.	
Kunshan Taiheiyo Precision Machinery Co., Ltd.	
LF Logistics (China) Co., Ltd.	
Lianji Chemical Industry Co Limited.	
Liaoning Northern Steel Pipe Co., Ltd.	
Longyou Yilaida Electric Appliance Co., Ltd.	
Myriad Treasure Trading Co., Ltd.	
Nb Bedding & Living Company Limited.	
Ningbo Acei Screw Plug Inc.	
Ningbo Haishu Jiayong Xingyo Import & Export Co., Ltd.	
Ningbo Sunny Foreign Trade Co., Ltd.	
Orient Express Container Co., Ltd.	
Pacific Star Express Corporation.	
Pangang Chengdu Group Iron & Steel Co., Ltd.	
Panyu Chu Kong Steel Pipe Co., Ltd.	
Pudong Prime International Company Limited.	
Qingdao Ocean Master Steel & Plastic Co., Ltd.	
Qingdao Xiangxing Steel Pipe Co., Ltd.	
Qingdao Yongjie Import & Export Co., Ltd.	
Ritime Group Inc.	
Rizhao Xingye Import & Export Co., Ltd.	
Rogers Corporation.	
Shandong Liancheng Auto Parts Company.	
Shandong Xinyuan Group Co., Ltd.	
Shanghai Freeland International Trading Co. Ltd.	
Shanghai Golden Bridge Int'l Logistic Co., Ltd.	
Shanghai ITPC Import & Export Co. Ltd.	
Shanghai Metals & Minerals Import & Export Corporation.	
Shanghai Pudong International Transportation.	
Shanghai Wor-Biz Trading Co., Ltd.	
Shanghai Zhongyou Tipo Steel Pipe Co., Ltd.	
Shaoxing Xinyue Trade Co., Ltd.	
Shenyang Boyu M/E Co., Ltd.	
Shenyang Machinery Import & Export Co., Ltd.	

	Period to be reviewed
Shijiazhuang Zhongqing Imp & Exp Co., Ltd.	
Sichuan Y&J Industries Company Limited.	
Spat Steel International Hong Kong Limited.	
Suzhou Hongsheng Lighting Products Co. Ltd.	
Tangshan Fengnan District Xinlida Steel Pipe Co., Ltd.	
The Huludao Steel Tube Industry Co., Ltd.	
Tianjin Baolai Int'l Trade Co., Ltd.	
Tianjin Haoyou Industry Trade Co., Ltd.	
Tianjin Hongshengxiang Paper Company.	
Tianjin Lifengyuanda Steel Group Co. Ltd.	
Tianjin Lituo Steel Products Co., Ltd.	
Tianjin Longshenghua Import And Export.	
Tianjin No.1 Steel Rolled Co., Ltd.	
Tianjin Pipe International Economic & Trading Corporation.	
Tianjin Ruitong Steel Co., Ltd.	
Tianjin Shenzhoutong Steel Pipe Co., Ltd.	
Tianjin Vision International Trading Co., Ltd.	
Tianjin Xingyuda Import And Export Co., Ltd.	
Tianjin Xingyunda Steel Pipe Co., Ltd.	
Tianjin Yayi Industrial Co., Ltd.	
Translink Shipping, Inc.	
Weifang East Steel Pipe Co., Ltd.	
Wisco And Crm Wuhan Materials & Trading Co., Ltd.	
Wuhan Bosen Trade Co., Ltd.	
Wuxi Eric Steel Pipe Co., Ltd.	
Wuxi Fastube Industry Co., Ltd.	
Wuxi Marca International Imports And Exports.	
Xuzhou Global Pipe & Fitting Manufacturing Co., Ltd.	
Xuzhou Guang Huan Steel Tube Products Co., Ltd.	
Xuzhou Yongsheng Pipe & Fitting Co., Ltd.	
Yangzhou Lontrin Steel Tube Co., Ltd.	
Zhangjiagang Hengchang Welding Materials Co., Ltd.	
Zhangjiangang Zhongyuan Pipe-Making Co., Ltd.	
Zhejiang Kingland Pipeline Industry Co., Ltd.	
Zhejiang Machinery & Equipment Import & Export Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Corrosion-Resistant Steel Products, A–570–026	7/1/18–6/30/19
China Steel Sumikin Vietnam.	
Dai Thien Loc Corp.	
Hoa Phat Steel Pipe.	
Hoa Sen Group.	
Maruichi Sun Steel.	
Nam Kim Steel.	
Nippon Steel and Sumikin Sales Vietnam Co., Ltd.	
NS Bluescope.	
Southern Steel Sheet Co.	
Ton Dong A Corporation.	
Vina One.	
THE PEOPLE'S REPUBLIC OF CHINA: Monosodium Glutamate, A–570–992	11/1/17–10/31/18
The China-Wide Entity.[12]	
THE PEOPLE'S REPUBLIC OF CHINA: Xanthan Gum, A–570–985	7/1/18–6/30/19
A.H.A. International Co., Ltd.	
CP Kelco (Shandong) Biological Company Limited.	
Deosen Biochemical (Ordos) Ltd.	
Deosen Biochemical Ltd.	
Green Health International.	
Greenhealth International Co., Ltd. (Hong Kong).	
Hebei Xinhe Biochemical Co. Ltd.	
Inner Mongolia Jianlong Biochemical Co., Ltd.	
Jianglong Biotechnology Co., Ltd.	
Langfang Meihua BioTechnology Co., Ltd.	
Meihua Group International Trading (Hong Kong) Limited.	
Meihua Group International Trading (Hong Kong).	
Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng.	
Biotechnologies Co., Ltd.	
Shandong Fufeng Fermentation Co., Ltd.	
Shanghai Smart Chemicals Co. Ltd.	
Xinjiang Fufeng Biotechnologies Co., Ltd.	
Xinjiang Meihua Amino Acid Co., Ltd.	
TURKEY: Steel Concrete Reinforcing Bar, A–489–829	7/1/18–6/30/19
Colakoglu Dis Ticaret A.S.	
Colakoglu Metalurji A.S.	
Diler Dis Ticaret A.S.	
Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S.	
Icdas Celik Enerji Tersane ve Ulasim.	

	Period to be reviewed
Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.	
Kaptan Demir Celik Endustrisi ve Ticaret A.S.	
Kaptan Metal Dis Ticaret ve Nakliyat A.S.	
VENEZUELA: Silicomanganese,[13] A–307–820	5/1/18–4/30/19
Countervailing Duty Proceedings	
INDIA: Polyethylene Terephthalate (PET) Film, C–533–825	1/1/18–12/31/18
Ester Industries Limited.	
Garware Polyester Ltd.	
Jindal Poly Films Limited.[14]	
MTZ Polyesters Ltd.	
Polyplex Corporation Ltd.	
SRF Limited.[15]	
Uflex Ltd.	
Vacmet India Limited.	
ITALY: Certain Pasta, C–475–819	1/1/18–12/31/18
Industria Alimentare Colavita, S.p.A	
Pastificio Fratelli De Luca S.r.l.	
Tesa S.r.l.	
REPUBLIC OF KOREA: Corrosion-Resistant Steel Products, C–580–879	1/1/18–12/31/18
AJU Steel Co., Ltd.	
Anjeon Tech.	
Benison Korea Transport.	
Core International.	
CS Global Logistics.	
Dai Yang Metal Co., Ltd.	
Dongbu Incheon Steel Co., Ltd.	
Dongbu Steel Co., Ltd.	
GS Global Corp.	
Hanwa (Korea) Co., Ltd.	
Hebei Hongxing Auto Made.	
Hoa Sen Group.	
Hyundai Steel Company.	
Intergis.	
Jeongwha Polytech.	
Joo Sung Sea And Air Co., Ltd.	
KC Tech.	
Kima Steel Corporation.	
Korea Clad Tech.	
Kyoungdo Steel Co., Ltd.	
Market Connect Sales Services.	
Milestone Korea Co., Ltd.	
Nippon Steel and Sumikin Sales Vietnam Co., Ltd.	
POSCO.	
POSCO Coated & Color Steel Co., Ltd.	
POSCO Daewoo Corporation.	
POSCO International Corporation.	
Qingdao Wangbaoqiang.	
Roser Co., Ltd.	
Samsung C&T Corporation.	
Sanglim Steel.	
SeAH Steel.	
Sejung Shipping Co., Ltd.	
Seun Steel.	
Shandongsheng Cao Xian Yalu Mftd.	
Sung A Steel.	
TCC Steel Co., Ltd.	
Ton Dong A Corporation.	
Young Heung Iron and Steel Co., Ltd.	
Young Steel Korea Co., Ltd.	
Young Sun Steel Co.	
SOCIALIST OF REPUBLIC OF VIETNAM: Certain Steel Nails, C–552–819	1/1/18–12/31/18
Atlantic Manufacure Inc.	
Chia Pao Metal Co., Ltd.	
CS Song Thuy.	
Easylink Industrial Co., Ltd.	
Expeditors Vietnam Company Limited.	
Inmax Industries SDN. BHD.	
Jinhai Hardware Co., Ltd.	
Le Phuong Trading Import Export.	
Long Nguyen Trading & Service Co., Ltd.	
Region Industries Co., Ltd.	
Rich State Inc.	
Sam Hwan Vina Co., Ltd.	

	Period to be reviewed
Thai Bao Im-Ex Corporation Company.	
Truong Vinh Ltd.	
United Nail Products Co. Ltd.	
Vinalink O B Lu Yen Linh.	
THE PEOPLE'S REPUBLIC OF CHINA: Aluminum Extrusions, [16 17]	1/1/18–12/31/18
C–570–968	
Acro Import and Export Co.	
Changshu Changshen Aluminum Products Co., Ltd.	
Changshu Changsheng Aluminum Products Co., Ltd.	
Changzhou Changzheng Evaporator Co., Ltd.	
Global Hi-Tek Precision Co. Ltd.	
Hong Kong Modern Non-Ferrous Metal.	
Kromet Intl Inc.	
Shanghai Automobile Air-Conditioner Accessories Co Ltd.	
Tianjin Ganglv Nonferrous Metal Materials Co., Ltd.	
Xin Wei Aluminum Co.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Cold-Rolled Steel Flat Products, C–570–030	1/1/18–12/31/18
China Steel Sumikin JSC.	
Dai Thien Loc Corp.	
Hoa Phat Steel Pipe.	
Hoa Sen Group.	
Maruichi Sun Steel Corporation.	
Nam Kim Steel.	
NS BlueScope.	
POSCO Vietnam.	
Southern Steel Sheet Co.	
Ton Dong A Corporation.	
Vina One.	
VNSteel—Phu My Flat Steel.	
THE PEOPLE'S REPUBLIC OF CHINA: Circular Welded Carbon Quality Steel Pipe, C–570–911	1/1/18–12/31/18
A&T Industry Co., Ltd.	
Allied Transport System Inc.	
AM Global Shipping Lines.	
Ample Star Enterprises.	
Apex Maritime (Tianjin) Co., Ltd.	
Artson Fuzhou Co., Ltd.	
Baoshan Iron & Steel Co., Ltd.	
Bazhou Dongsheng Hot-Dipped Galvanized Steel Pipe Co., Ltd.	
Bazhou Zhuofa Steel Pipe Co. Ltd.	
Beijing Bell Plumbing Manufacturing Ltd.	
Beijing Jia Mei Ao Trade Limited.	
Beijing Jinghua Shunqi Trading Co., Ltd.	
Beijing Kaishengao Import & Export.	
Beijing Kang Jie Kong International Cargo Agent Co., Ltd.	
Beijing Sai Lin Ke Hardware Co., Ltd.	
Beijing Zhongxingtong Technology Company Limited.	
Benxi Northern Pipes Co., Ltd.	
Bestar Steel Co., Ltd.	
Cangzhou Huasheng Modern Casting Company Limited.	
Chaoteng Group Ltd.	
CI Consolidators Services Limited.	
Cnooc Kingland Pipeline Co., Ltd.	
Dalian Brollo Steel Tubes Ltd.	
Dalian Shipbuilding Import Export Company.	
DSC Quanzhou Dongshan Machine Co., Ltd.	
Etco International Trading Co., Ltd.	
Feel Light Co., Ltd.	
Giant-Move Equipment Co., Ltd.	
Guangdong Walsall Steel Pipe Industrial Co., Ltd.	
Guangzhou Juyi Steel Pipe Co., Ltd.	
Hainan Standard Stone Company Ltd.	
Hangzhou Chaoteng International.	
Hangzhou Shunlan Trading Company Limited.	
Hebei Machinery Import & Export Co., Ltd.	
Hebei Metals & Engineering Products Co., Ltd.	
Hefei Ziking Steel Pipe Co., Ltd.	
Hengshui Jinghua Steel Pipe Co., Ltd.	
Hengyang Valin Steel Tube Group Trading Co. Ltd.	
Herede Engineering Ltd.	
Hubei Xin Yegang Special Tube Co.	
Hulado City Steel Pipe Industrial Co., Ltd.	
Hunan Henyang Steel Tube (Group) Co., Ltd.	
Jiangsu Changbao Steel Tube Co., Ltd.	
Jiangsu Guoqiang Zinc-Plating Industrial Company, Ltd.	

	Period to be reviewed
Jiangsu Hen-Yuan Garden Supplies Company Ltd.	
Jiangsu Yulong Steel Pipe Co., Ltd.	
Jiangsu Zhongheng Dyeing & Finishing Co., Ltd.	
Jiangyin Jianye Metal Products Co., Ltd.	
Jinan Meide Casting Co. Ltd.	
Jinan Meide Piping Technology Company Ltd.	
Kun Shan Sandia Special Steel Pipe Co., Ltd.	
Kunshan City Yuan Han Electronic Co., Ltd.	
Kunshan Lets Win Steel Machinery Co., Ltd.	
Kunshan Taiheiyo Precision Machinery Co., Ltd.	
LF Logistics (China) Co., Ltd.	
Lianji Chemical Industry Co Limited.	
Liaoning Northern Steel Pipe Co., Ltd.	
Longyou Yilaida Electric Appliance Co., Ltd.	
Myriad Treasure Trading Co., Ltd.	
Nb Bedding & Living Company Limited.	
Ningbo Acei Screw Plug Inc.	
Ningbo Haishu Jiayong Xingyo Import & Export Co., Ltd.	
Ningbo Sunny Foreign Trade Co., Ltd.	
Orient Express Container Co., Ltd.	
Pacific Star Express Corporation.	
Pangang Chengdu Group Iron & Steel Co., Ltd.	
Panyu Chu Kong Steel Pipe Co., Ltd.	
Pudong Prime International Company Limited.	
Qingdao Ocean Master Steel & Plastic Co., Ltd.	
Qingdao Xiangxing Steel Pipe Co., Ltd.	
Qingdao Yongjie Import & Export Co., Ltd.	
Ritime Group Inc.	
Rizhao Xingye Import & Export Co., Ltd.	
Rogers Corporation.	
Shandong Liancheng Auto Parts Company.	
Shandong Xinyuan Group Co., Ltd.	
Shanghai Freeland International Trading Co. Ltd.	
Shanghai Golden Bridge Int'l Logistic Co., Ltd.	
Shanghai ITPC Import & Export Co. Ltd.	
Shanghai Metals & Minerals Import & Export Corporation.	
Shanghai Pudong International Transportation.	
Shanghai Wor-Biz Trading Co., Ltd.	
Shanghai Zhongyou Tipo Steel Pipe Co., Ltd.	
Shaoxing Xinyue Trade Co., Ltd.	
Shenyang Boyu M/E Co., Ltd.	
Shenyang Machinery Import & Export Co., Ltd.	
Shijiazhuang Zhongqing Imp & Exp Co., Ltd.	
Sichuan Y&J Industries Company Limited.	
Spat Steel International Hong Kong Limited.	
Suzhou Hongsheng Lighting Products Co. Ltd.	
Tangshan Fengnan District Xinlida Steel Pipe Co., Ltd	
The Huludao Steel Tube Industry Co., Ltd.	
Tianjin Baolai Int'l Trade Co., Ltd.	
Tianjin Haoyou Industry Trade Co., Ltd.	
Tianjin Hongshengxiang Paper Company.	
Tianjin Lifengyuanda Steel Group Co. Ltd.	
Tianjin Lituo Steel Products Co., Ltd.	
Tianjin Longshenghua Import And Export.	
Tianjin No.1 Steel Rolled Co., Ltd.	
Tianjin Pipe International Economic & Trading Corporation.	
Tianjin Ruitong Steel Co., Ltd.	
Tianjin Shenzhoutong Steel Pipe Co., Ltd.	
Tianjin Vision International Trading Co., Ltd.	
Tianjin Xingyuda Import And Export Co., Ltd.	
Tianjin Xingyunda Steel Pipe Co., Ltd.	
Tianjin Yayi Industrial Co., Ltd.	
Translink Shipping, Inc.	
Weifang East Steel Pipe Co., Ltd.	
Wisco And Crm Wuhan Materials & Trading Co., Ltd	
Wuhan Bosen Trade Co., Ltd.	
Wuxi Eric Steel Pipe Co., Ltd.	
Wuxi Fastube Industry Co., Ltd.	
Wuxi Marca International Imports And Exports.	
Xuzhou Global Pipe & Fitting Manufacturing Co., Ltd.	
Xuzhou Guang Huan Steel Tube Products Co., Ltd.	
Xuzhou Yongsheng Pipe & Fitting Co., Ltd.	
Yangzhou Lontrin Steel Tube Co., Ltd.	
Zhangjiagang Hengchang Welding Materials Co., Ltd	

	Period to be reviewed
Zhangjiangang Zhongyuan Pipe-Making Co., Ltd.	
Zhejiang Kingland Pipeline Industry Co., Ltd.	
Zhejiang Machinery & Equipment Import & Export Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Corrosion-Resistant Steel Products, C–570–027	1/1/18–12/31/18
China Steel Sumikin Vietnam.	
Dai Thien Loc Corp.	
Hoa Phat Steel Pipe.	
Hoa Sen Group.	
Maruichi Sun Steel.	
Nam Kim Steel.	
Nippon Steel and Sumikin Sales Vietnam Co., Ltd.	
NS Bluescope.	
Southern Steel Sheet Co.	
Ton Dong A Corporation.	
Vina One.	
THE PEOPLE'S REPUBLIC OF CHINA: Cold-Drawn Mechanical Tubing [18], C–570–059	9/25/17–12/31/18
Zhejiang Minghe Steel Pipe Co., Ltd.	
TURKEY: Steel Concrete Reinforcing Bar, C–489–830	1/1/18–12/31/18.
Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S.	

Suspension Agreements

None.

[5] In the initiation notice that published on July 15, 2019 (84 FR 33739), covering cases with the May anniversary dates, Commerce inadvertently listed the referenced case above. We are not initiating a review with respect to Compagnie Selenis Canada.

[6] This company is also known as Jindal Poly Films Ltd. (India) and Jindal Poly Films Limited of India.

[7] This company is also known as SRF Limited of India.

[8] The name of the company listed above was misspelled in the initiation notice that published on July 29, 2018 (84 FR 36572). The correct spelling of this company's name is listed in this notice.

[9] Commerce determined to treat Pro-Team Coil Nail Enterprise Inc. and PT Enterprise Inc. as a single entity. *See Certain Steel Nails from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review; 2015–2016,* 82 FR 36744 (August 7, 2017) and accompanying Preliminary Decision Memorandum, unchanged in *Certain Steel Nails from Taiwan: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review; 2015–2016,* 83 FR 6163 (February 13, 2018). Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[10] The names of the companies listed above were misspelled in the initiation notice that published on July 15, 2019 (84 FR 33739). The correct spellings of these companies' names are listed in this notice.

[11] The following paragraph was also inadvertently omitted from the initiation notice that published on July 15, 2019 (84 FR 33739), and is hereby incorporated into it:

*Respondent Selection—Aluminum Extrusions from the People's Republic of China*In the event Commerce limits the number of respondents for individual examination in the administrative review of the antidumping duty order on aluminum extrusions from the People's Republic of China (''China''), Commerce intends to select respondents based on volume data contained in responses to Q&V questionnaires. Further, Commerce intends to limit the number of Q&V questionnaires issued in the review based on CBP data for U.S. imports of aluminum extrusions from China. The extremely wide variety of individual types of aluminum extrusion products included in the scope of the order on aluminum extrusions would preclude meaningful results in attempting to determine the largest China exporters of subject merchandise by volume. Therefore, Commerce will limit the number of Q&V questionnaires issued based on the import values in CBP data which will serve as a proxy for imported quantities. Parties subject to the review to which Commerce does not send a Q&V questionnaire may file a response to the Q&V questionnaire by the applicable deadline if they desire to be included in the pool of companies from which Commerce will select mandatory respondents. The Q&V questionnaire will be available on Commerce's website at *http://trade.gov/enforcement/news.asp* on the date of publication of this notice in the **Federal Register**. The responses to the Q&V questionnaire must be received by Commerce within 14 days of publication of this notice. Please be advised that due to the time constraints imposed by the statutory and regulatory deadlines for antidumping duty administrative reviews, Commerce does not intend to grant any extensions for the submission of responses to the Q&V questionnaire. Parties will be given the opportunity to comment on the CBP data used by Commerce to limit the number of Q&V questionnaires issued. We intend to release the CBP data under APO to all parties having an APO within seven days of publication of this notice in the **Federal Register**. Commerce invites comments regarding CBP data and respondent selection within five days of placement of the CBP data on the record.

[12] Commerce inadvertently omitted the China-Wide Entity from the Initiation Notice which published on February 6, 2019 (84 FR 2159).

[13] In the initiation notice that published on July 15, 2019 (84 FR 33739), covering cases with the May anniversary dates, Commerce inadvertently listed the referenced case above. We are not initiating a review with respect to Homos Electricos de Venezuela, FerroAtlantica de Venezuela and FerroAtlantica S.A.

[14] This company is also known as Jindal Poly Films Ltd. (India) and Jindal Poly Films Limited of India.

[15] This company is also known as SRF Limited of India.

[16] The names of the companies listed above were misspelled in the initiation notice that published on July 15, 2019 (84 FR 33739). The correct spellings of these companies' names are listed in this notice.

[17] The following paragraph was also inadvertently omitted from the initiation notice that published on July 15, 2019 (84 FR 33739), and is hereby incorporated into it:

*Respondent Selection—Aluminum Extrusions from the People's Republic of China*In the event Commerce limits the number of respondents for individual examination in the administrative review of the antidumping duty order on aluminum extrusions from the People's Republic of China (''China''), Commerce intends to select respondents based on volume data contained in responses to Q&V questionnaires. Further, Commerce intends to limit the number of Q&V questionnaires issued in the review based on CBP data for U.S. imports of aluminum extrusions from China. The extremely wide variety of individual types of aluminum extrusion products included in the scope of the order on aluminum extrusions would preclude meaningful results in attempting to determine the largest China exporters of subject merchandise by volume. Therefore, Commerce will limit the number of Q&V questionnaires issued based on the import values in CBP data which will serve as a proxy for imported quantities. Parties subject to the review to which Commerce does not send a Q&V questionnaire may file a response to the Q&V questionnaire by the applicable deadline if they desire to be included in the pool of companies from which Commerce will select mandatory respondents. The Q&V questionnaire will be available on Commerce's website at *http://trade.gov/enforcement/news.asp* on the date of publication of this notice in the **Federal Register**. The responses to the Q&V questionnaire must be received by Commerce within 14 days of publication of this notice. Please be advised that due to the time constraints imposed by the statutory and regulatory deadlines for antidumping duty administrative reviews, Commerce does not intend to grant any extensions for the submission of responses to the Q&V questionnaire. Parties will be given the opportunity to comment on the CBP data used by Commerce to limit the number of Q&V questionnaires issued. We intend to release the CBP data under APO to all parties having an APO within seven days of publication of this notice in the **Federal Register**. Commerce invites comments regarding CBP data and respondent selection within five days of placement of the CBP data on the record.

[18] The name of the company listed above was misspelled in the initiation notice that published on May 2, 2019 (84 FR 18777). The correct spelling of the company name is listed in this notice.

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a

determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013–08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[19] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[20] Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. *See* 19 CFR 351.302. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) Q&V questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR–2013–09–20/html/2013–22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: September 3, 2019.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2019–19417 Filed 9–6–19; 8:45 am]

BILLING CODE 3510–DS–P

[19] *See* section 782(b) of the Act.

[20] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Preliminary Draft of the NIST Privacy Framework

AGENCY: National Institute of Standards and Technology, U.S. Department of Commerce.

ACTION: Notice; request for comment.

SUMMARY: The National Institute of Standards and Technology (NIST) seeks comments on the Preliminary Draft of the NIST Privacy Framework: A Tool for Improving Privacy through Enterprise Risk Management (''Preliminary Draft''). The Preliminary Draft was developed by NIST using information collected through the Request for Information (RFI) that was published in the **Federal Register** on November 14, 2018, and a series of open public workshops and webinars. NIST developed the Preliminary Draft in collaboration with public and private stakeholders. It is intended for voluntary use to help organizations: Better identify, assess, manage, and communicate privacy risks when designing or deploying systems, products, and services; foster the development of innovative approaches to protecting individuals' privacy; and increase trust in systems, products, and

services. The Preliminary Draft is available electronically from the NIST website at: *https://www.nist.gov/privacy-framework.*

DATES: Comments in response to this notice must be received by 5:00 p.m. Eastern time on October 24, 2019.

ADDRESSES: Written comments may be submitted by mail to Katie MacFarland, National Institute of Standards and Technology, 100 Bureau Drive, Stop 2000, Gaithersburg, MD 20899. Electronic submissions may be sent to *privacyframework@nist.gov,* and may be in any of the following formats: HTML, ASCII, Word, RTF, or PDF. Please cite ''NIST Privacy Framework: Preliminary Draft Comments'' in all correspondence. An optional comment template is available at *https://www.nist.gov/privacy-framework* and is encouraged for both written and electronic comments. Relevant comments received by the deadline will be posted at *https://www.nist.gov/privacy-framework* without change or redaction, so commenters should not include information they do not wish to be posted (*e.g.,* personal or confidential business information). Comments that contain profanity, vulgarity, threats, or other inappropriate language or content will not be posted or considered.

The Preliminary Draft is available electronically from the NIST website at: *https://www.nist.gov/privacy-framework.*

FOR FURTHER INFORMATION CONTACT: For questions about this notice, contact: Naomi Lefkovitz, U.S. Department of Commerce, NIST, MS 2000, 100 Bureau Drive, Gaithersburg, MD 20899, telephone (301) 975–2924, email *privacyframework@nist.gov.* Please direct media inquiries to NIST's Public Affairs Office at (301) 975–NIST.

SUPPLEMENTARY INFORMATION: For more than two decades, the internet and associated information technologies have driven unprecedented innovation, economic value, and improvement in social services. Many of these benefits are fueled by data about individuals that flow through a complex ecosystem. As a result of this complexity, individuals may not understand the potential consequences for their privacy as they interact with systems, products, and services. At the same time, organizations may not realize the full extent of these consequences for individuals, for society, or for their enterprises, which can affect their reputations, their bottom line, and their future prospects for growth. In response to these risks, and in order to further technological innovation and increase trust in information systems, NIST has undertaken development of the voluntary NIST Privacy Framework: A Tool for Improving Privacy through Enterprise Risk Management.

The Preliminary Draft, as presented, is intended to provide an organizational tool for:

- Building customer trust by supporting ethical decision-making in product and service design or deployment that optimizes beneficial uses of data while minimizing adverse consequences for individuals' privacy and society as a whole;
- Helping to fulfill current compliance obligations, as well as future-proofing products and services in a changing technological and policy environment; and
- Facilitating communication about privacy practices with customers, assessors, and regulators.

It is designed to enable organizations to manage privacy risks through a prioritized, flexible, outcome-based, and cost-effective approach that is compatible with existing legal and regulatory regimes in order to be most useful to a broad range of organizations and enable widespread adoption. It is modeled after the structure of the Framework for Improving Critical Infrastructure Cybersecurity to facilitate the complementary use of both frameworks.[1]

The Preliminary Draft was developed through a public review and comment process that included information collected through a Request for Information (RFI), 83 FR 56824 (November 14, 2018), and a series of public workshops and webinars. Comments received in response to the RFI are available at *https://www.nist.gov/privacy-framework/request-information.*

NIST held three open public workshops and four webinars to provide the public with additional opportunities to provide input. The first workshop was conducted on October 16, 2018, in Austin, Texas. The second workshop was conducted on May 13–14, 2019 at the Georgia Institute of Technology Scheller College of Business in Atlanta, Georgia. The third workshop was conducted on July 8–9, 2019, at the Boise State University School of Public Service in Boise, Idaho. The four webinars were held on November 29, 2018; March 14, 2019; May 28, 2019; and June 27, 2019. In addition, NIST provided materials on its website to aid in the development process. These materials included an outline (February 2019), a discussion draft (April 2019), and supplemental materials to the discussion draft (June 2019). These materials, as well as workshop agendas, presentation slides, and summary reports, and recordings of workshop plenary sessions and webinars are available at *https://www.nist.gov/privacy-framework.*

[1] National Institute of Standards and Technology (2018) Framework for Improving Critical Infrastructure Cybersecurity, Version 1.1. (National Institute of Standards and Technology, Gaithersburg, MD), *https://doi.org/10.6028/NIST.CSWP.04162018.*

Request for Comments

NIST seeks public comments on the Preliminary Draft available electronically from the NIST website at: *https://www.nist.gov/privacy-framework.* An optional comment template is available at the same address and is encouraged for both written and electronic comments. Interested parties should submit comments in accordance with the **DATES** and **ADDRESSES** sections of this notice. Relevant comments received by the deadline will be posted at *https://www.nist.gov/privacy-framework* without change or redaction, so commenters should not include information they do not wish to be posted (*e.g.,* personal or confidential business information). Comments that contain profanity vulgarity, threats, or other inappropriate language or content will not be posted or considered.

Authority: 15 U.S.C. 272(b), (c), & (e); 15 U.S.C. 278g–3.

Kevin A. Kimball,

Chief of Staff.

[FR Doc. 2019–19315 Filed 9–6–19; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV049

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Summer Flounder, Scup, and Black Sea Bass Advisory Panel will hold a public webinar meeting, jointly with the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Advisory Panel.

DATES: The meeting will be held on Tuesday, September 24, 2019, from 9 a.m. until 12 p.m.

ADDRESSES: The meeting will be held via webinar, which can be accessed at: *http://mafmc.adobeconnect.com/fsb-ap-sept-2019/.* Meeting audio can also be accessed via telephone by dialing 1–800–832–0736 and entering room number 4472108.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council's Summer Flounder, Scup, and Black Sea Bass Advisory Panel will meet via webinar jointly with the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Advisory Panel. The purpose of this meeting is to review recent operational stock assessment information for scup and black sea bass, and to review the recommendations of the Scientific and Statistical Committee and Monitoring Committee for 2020–21 specifications for all three species. The advisory panel will also review an analysis of commercial scup discards, and will be asked for input on commercial minimum mesh size requirements.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 4, 2019.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019–19377 Filed 9–6–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV050

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will convene a meeting of the Southern Resident Killer Whale (SRKW) Workgroup (Workgroup).

DATES: The meeting will be held Tuesday, October 8 through Wednesday, October 9, 2019. The meeting will be held from 10 a.m. to 5 p.m., Pacific Daylight Time (PDT) on October 8. The meeting will continue on October 9 at 9 a.m. (PDT) and will end at 2 p.m. The meeting times are an estimate; the meetings will adjourn when business for the day is complete.

ADDRESSES: The meeting will be held in the Garden Room, Sheraton Portland Airport Hotel, 8235 NE Airport Way, Portland, OR 97220; telephone: (503) 281–2500.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Ehlke, Pacific Council; telephone: (503) 820–2410.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss data needs, document development, work plans, and progress made on assigned tasks. The Pacific Council's Salmon Advisory Subpanel will be invited to attend in order to provide additional input and comments on the Workgroup's draft Risk Assessment report as needed. The Workgroup may also discuss and prepare for future Workgroup and Pacific Council meetings. This is a public meeting and not a public hearing. Public comments will be taken at the discretion of the Workgroup co-chairs as time allows.

The National Marine Fisheries Service (NMFS) reinitiated Endangered Species Act (ESA) consultation on the effect of Pacific Council-area ocean salmon fisheries on SRKW. The Pacific Council formed the Workgroup to reassess the effects of Pacific Council-area ocean salmon fisheries on the Chinook salmon prey base of SRKW. The Workgroup has held multiple meetings since their inception. Materials presented during past Workgroup meetings may be found on the NMFS West Coast Regional website (*https://www.fisheries.noaa.gov/west-coast/southern-resident-killer-whales-and-fisheries-interaction-workgroup*). Agendas and meeting notices can be found on the Pacific Council's website at *https://www.pcouncil.org.*

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The public listening station is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at *kris.kleinschmidt@noaa.gov,* at least 10 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 4, 2019.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019–19378 Filed 9–6–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV053

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of SEDAR 58 review workshop for Atlantic Cobia.

SUMMARY: The SEDAR 58 assessment(s) of the Atlantic stock of Cobia will consist of a series of workshops and webinars: Stock Identification (ID) Workshop; Stock ID Review Workshop; Stock ID Joint Cooperator Technical Review; Data Workshop; Assessment Webinars; and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 58 Review Workshop will be held on November 19, 2019, from 9 a.m. to 6 p.m., and November 20–21, 2019, from 8 a.m. to 6 p.m. The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from or completed prior to the time established by this notice.

ADDRESSES: The SEDAR 58 Review Workshop will be held at the Beaufort

Hotel, 2440 Lennoxville Rd., Beaufort NC 28516.

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405; *www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: Kathleen Howington, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366; email: Kathleen.howington@safmc.net.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion at the Review Workshop are as follows:

- Review the stock assessment report and determine if it is scientifically sound.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 4, 2019.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019–19380 Filed 9–6–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV059

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Atlantic Mackerel, Squid, and Butterfish (MSB) Advisory Panel will hold a meeting.

DATES: The meeting will be held on Monday, September 23, 2019, beginning at 9 a.m. and concluding by 1 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar with a telephone-only audio connection: *http://mafmc.adobeconnect.com/msb-ap-illex/*. Telephone instructions are provided upon connecting, or the public can call direct: (800) 832–0736, Rm: *7833942#.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their website at *www.mafmc.org*.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and provide input on options for modifying access to the *Illex* squid fishery as well as for revisions to the MSB Plan Goals/Objectives. The terms of reference for a working group on in-year *Illex* quota adjustments will also be discussed.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to any meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 4, 2019.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019–19439 Filed 9–6–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV054

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council, NEFMC) will hold a four-day meeting to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Monday, Tuesday, Wednesday, and Thursday, September 23, 24, 25, and 26, 2019, beginning at 1:30 p.m. on September 23 and 8:30 a.m. on September 24, 25, and 26.

ADDRESSES: The meeting will be held at the Beauport Hotel, 55 Commercial Street, Gloucester, MA 01930; telephone (978) 282–0008; online at *www.beauporthotel.com.*

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465–0492; *www.nefmc.org.*

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492, ext. 113.

SUPPLEMENTARY INFORMATION:

Agenda

Monday, September 23, 2019

After introductions and brief announcements, the meeting will begin with the swearing-in of reappointed Council members, followed by the annual election of officers. Next, the Council will hear reports from the Council Chairman and Executive Director, NMFS's Regional Administrator for the Greater Atlantic Regional Fisheries Office (GARFO), liaisons from the Northeast Fisheries Science Center (NEFSC) and Mid-Atlantic Fishery Management Council, representatives from NOAA General Counsel and NOAA's Office of Law Enforcement, and staff from the Atlantic States Marine Fisheries Commission (ASMFC), U.S. Coast Guard, and Stellwagen Bank National Marine Sanctuary. The Council then will take up the Atlantic Herring Committee report and discuss two issues. For the first one, the Council will: (a) Receive a presentation on a draft discussion document about Atlantic herring spawning on Georges Bank; and (b) discuss possible Council action on next steps. Regarding the second issue, the Council used a Management Strategy Evaluation (MSE) process to develop acceptable biological catch (ABC) control rule alternatives for Amendment 8 to the Atlantic Herring Fishery Management Plan (FMP). The Council recently took a step back to solicit stakeholder feedback and conduct a ''debrief'' on how that process went. At this meeting, the Council will receive an overview of the results of the debriefing. Next, the Council will receive a presentation from GARFO on NMFS's determination that an Endangered Species Act listing for alewife and blueback herring, also known as river herring, was ''not warranted.'' Following these actions, the Council will adjourn for the day.

Tuesday, September 24, 2019

The Council will begin the day by discussing a Commercial eVTR Omnibus Framework that is under development jointly with the Mid-Atlantic Fishery Management Council. The framework proposes to require that vessel trip reports (VTRs) be submitted electronically instead of on paper for all commercial species managed by both Councils. The Mid-Atlantic Council initiated the action, and in June, the New England Council joined in. This marks the first framework meeting for the omnibus action by the New England Council. Next, the Scientific and Statistical Committee (SSC) will provide the Council with overfishing limit (OFL) and ABC recommendations for: Georges Bank yellowtail and the Northeast skate complex for fishing years 2020–2021; monkfish for 2020–2022; and deep-sea red crab for 2020–2023. The Monkfish Committee will report next. The Council will take final action on Framework Adjustment 12, which contains 2020–2022 fishing year specifications and other measures for the Monkfish FMP. This will be followed by the Atlantic Deep-Sea Red Crab report, where the Council will take final action on 2020–2023 specifications for the red crab fishery. Skates will be up next. The Council will discuss and take final action on Framework Adjustment 8, which contains 2020–2021 fishing year specifications and other measures for the Northeast skate complex. It also will receive the fishing year 2018 Annual Monitoring Report for the skate complex.

Following the lunch break, the Council will hear from its Ecosystem-Based Fishery Management (EBFM) Committee. First, the Council will receive a presentation on the Georges Bank example Fishery Ecosystem Plan (eFEP) Draft Report and provide comments. Once this discussion is completed, the Council will shift to Management Strategy Evaluation. The Council will be using MSE as it continues to work on the Georges Bank eFEP, and the Council will receive a progress report from its new EBFM MSE Steering Committee about how this effort is evolving. The Council then will adjourn for the day.

Wednesday, September 25, 2019

The third day of the meeting will begin with a report on the Northeast Trawl Advisory Panel's June 21 and July 29, 2019 meetings. The Council then will receive an update on the Groundfish Catch Share Program Review from two contractors that have been helping collect information and public input on this six-year review of the groundfish sector system. The Gulf of Maine Research Institute (GMRI) will provide an overview of the nine port meetings that were conducted in July and August to collect public comment on the review, and MRAG Americas Inc. will provide a briefing on the technical working group's progress on the review itself. The Enforcement Committee will report next and provide enforcement recommendations for: the Groundfish Codend Compliance Assistance Program (CAP); the Groundfish Catch Share Program Review; groundfish sector management compliance improvement; and Groundfish Monitoring Amendment 23. Then, the Council will: (1) Receive a presentation on NMFS's Draft Policy Directive on Electronic Monitoring (EM) Video Retention Periods; and (2) review and approve draft Council comments on the NMFS guidance. Next, the Council will address U.S./Canada issues based on information from the Transboundary Resources Assessment Committee (TRAC) and the Transboundary Management Guidance Committee (TMGC). The TRAC report will be first with a summary of 2018 assessment results for three U.S./Canada shared stocks—Eastern Georges Bank cod, Eastern Georges Bank haddock, and Georges Bank yellowtail flounder. The Council then will review and approve the TMGC's recommendations for 2020 total allowable catches (TACs) for those shared U.S./Canada stocks. Next, the Groundfish Committee will present the first part of its report, which will focus on Framework Adjustment 59 to the Northeast Multispecies FMP. This framework includes: (1) 2020 TACs for U.S./Canada stocks; (2) 2020–22 specifications for 15 Northeast multispecies stocks while addressing commercial/recreational allocation if raised by Marine Recreational Information Program (MRIP) data; and (3) removing allocations to the Closed Area I Haddock Special Access Program.

After the lunch break, members of the public will have the opportunity to speak during an open comment period on issues that relate to Council business but are not included on the published agenda for this meeting. The Council asks the public to limit remarks to 3–5 minutes. Then, the Groundfish Committee will resume with the second part of its report, which will focus on Monitoring Amendment 23 to Northeast Multispecies FMP. The Council will approve the Amendment 23 Draft Environmental Impact Statement (DEIS) for public hearing and select preliminary preferred alternatives. At the conclusion of this discussion, the Council will adjourn for the day.

Thursday, September 26, 2019

The fourth day of the meeting will begin with an initial discussion of 2020 Council priorities covering tasks and actions for all committees and Council responsibilities. The Council will not take final action on priorities until its December meeting. The Council then will take up several issues under its Scallop Committee Report, beginning with an update on Framework

Adjustment 32 to the Atlantic Sea Scallop FMP. This framework includes 2020 fishery specifications, 2021 default specifications, and measures to mitigate impacts on Georges Bank yellowtail flounder. As part of this discussion, the Council will receive an overview of the 2019 scallop resource surveys. The Council also will receive an update on Amendment 21 to the FMP, which is being developed to address: (1) Northern Gulf of Maine (NGOM) Management Area issues, (2) the Limited Access General Category (LAGC) possession limit, and (3) the one-way transfer of individual fishing quota (IFQ) from Limited Access vessels with LAGC IFQ to vessels that only hold LAGC IFQ permits. Next, the Council will receive an overview of the Fishing Year 2018 Small-Mesh Multispecies (Whiting) Annual Monitoring Report and receive a brief update on southern red hake rebuilding measures.

Following a lunch break, the Council will receive a report from its Habitat Committee. This will include: (1) An update on development of additional policies related to non-fishing activities; (2) an update on ongoing offshore energy activities in the Northeast Region; and (3) an overview of the revised joint New England/Mid-Atlantic Council offshore wind webpage. Then, the Council will receive two short reports on Highly Migratory Species (HMS) issues. The first will cover the HMS Advisory Panel's September 4–5, 2019 meeting, and the second will cover the September 5–6, 2019 meeting of the Advisory Committee to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas (ICCAT). Finally, the Council will close out the meeting with ''other business.''

Although non-emergency issues not contained on this agenda may come before the Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies (see **ADDRESSES**) at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 4, 2019.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019–19381 Filed 9–6–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV052

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Fishery Monitoring Advisory Committee will meet September 23, 2019 through September 24, 2019.

DATES: The meeting will be held on Monday, September 23, 2019, from 9 a.m. to 5 p.m. and on Tuesday, September 24, 2019, from 9 a.m. to 5 p.m., Pacific Standard Time.

ADDRESSES: The meeting will be held in Building 4, Marine Mammal Conference Room (2039), at the Alaska Fisheries Science Center, 7600 Sand Point Way NE, Seattle, WA 98115. Teleconference number: (877) 953–6215; pin 4546455.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone: (907) 271–2809.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Agenda

Monday, September 23, 2019 to Tuesday, September 24, 2019

The agenda will include: Strategic review of fishery monitoring committee roles; review revisions of the observer fee analysis; EM updates; a review of the draft 2020 Observer Annual Deployment Plan; review Observer working conditions; review observer analytical task status; scheduling, and other issues.

The Agenda is subject to change, and the latest version will be posted at *meetings.npfmc.org/Meeting/Details/906* prior to the meeting, along with meeting materials.

Public Comment

Public comment letters will be accepted and should be submitted either electronically to *meetings.npfmc.org/Meeting/Details/906* or through the mail: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252. In-person oral public testimony will be accepted at the discretion of the chair.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 271–2809 at least 7 working days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 4, 2019.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019–19379 Filed 9–6–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV055

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will meet September 30, 2019 through October 9, 2019.

DATES: The meetings will be held September 30, 2019 through October 9, 2019. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The Council, the SSC, and the Community Engagement Committee will be held at the Land's End Resort, 4786 Homer Spit Rd., Homer, AK 99603. The AP and the Cook Inlet Salmon Committee will meet at the Best Western Bidarka Inn, 575 Sterling Hwy., Homer, AK 99603.

Council address: North Pacific Fishery Management Council, 605 W 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone (907) 271–2809.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The Council will begin its plenary session at 8 a.m. in the Quarter Deck Room, Land's End Resort on Thursday, October 3, 2019 continuing through Wednesday, October 9, 2019. The Council's Scientific and Statistical Committee (SSC) will begin at 8 a.m. in the Quarter Deck Room, Land's End Resort on Monday, September 30, 2019 and continue through Wednesday, October 2, 2019. The Council's Advisory Panel (AP) will begin at 8 a.m. in the Williwaw room, Best Western Bidarka Inn on Tuesday, October 1, 2019 and continue through Saturday, October 5, 2019. The Cook Inlet Salmon Committee will meet on Monday, September 30, 2019, from 9 a.m. to 5 p.m., in the Williwaw Room at the Best Western Bidarka Inn. The Salmon Outreach meeting will meet on Monday, September 30, 2019, from 5:30 p.m. to 7 p.m., in the Williwaw Room at the Best Western Bidarka Inn.

The Community Engagement Committee will meet on Tuesday, October 1, 2019, from 8 a.m. to 5 p.m., in the Harbor Room at the Land's End Resort. The Introduction to the Council Process seminar will be held on Tuesday, October 1, 2019, from 5:30 p.m. to 7 p.m., (Room TBD).

Agenda

Monday, September 30, 2019 Through Wednesday, October 9, 2019

Council Plenary Session: The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

(1) Executive Director's Report (including updates on the State Mariculture Taskforce, Gulf Watch Alaska, and the 2019 decksorting EFP)
(2) NMFS Management Report
(3) NOAA GC Report
(4) AFSC Report
(5) ADF&G Report
(6) USCG Report
(7) USFWS Report
(8) BSAI Halibut ABM PSC Limits—Initial Review
(9) Observer Fee Analysis—Final Action
(10) Observer 2020 Annual Deployment Plan—Review
(11) BSAI Crab: (a) ABC/OFL for 5 stocks; (b) Final 2018–19 SAFE report; (c) Crab Plan Team Report
(12) BSAI Groundfish—Proposed Harvest Specifications
(13) GOA Groundfish—Proposed Harvest Specifications
(14) Sculpins to Ecosystem Components—Final Action
(15) BSAI Parallel Waters—Initial Review
(16) Trawl EM
(17) BSAI Pcod Trawl/Pot CV Management
(18) Stranded BSAI and GOA Pcod—Discussion Paper
(19) BSAI Pcod Pot CPT Participation—Discussion Paper
(20) Cook Inlet Salmon FMP
(21) Staff Tasking

The Advisory Panel will address Council agenda items (8–21).

The SSC agenda will include the following issues:

(1) AFSC Report
(2) BSAI Halibut ABM PSC Limits—Initial Review
(3) Observer 2020 Annual Deployment Plan—Review
(4) BSAI Crab: (a) ABC/OFL for 5 stocks; (b) Final 2018–19 SAFE report; (c) Crab Plan Team Report
(5) BSAI Groundfish—Proposed Harvest Specifications
(6) GOA Groundfish—Proposed Harvest Specifications
(7) BSAI Parallel Waters—Initial Review
(8) Trawl EM

In addition to providing ongoing scientific advice for fishery management decisions, the SSC functions as the Council's primary peer review panel for scientific information, as described by the Magnuson-Stevens Act section 302(g)(1)(e), and the National Standard 2 guidelines (78 FR 43066). The peer review process is also deemed to satisfy the requirements of the Information Quality Act, including the OMB Peer Review Bulletin guidelines.

The Cook Inlet Salmon Committee will review a draft outline for the description of human communities potentially affected by the FMP amendment, as well as management measure recommendations on reporting and monitoring requirements. The Committee will also review the timeline for completion of the amendment and new business, as needed. The Salmon Outreach event is intended to provide stakeholders and the general public with an overview of the issues involved in Council management of salmon fishing in federal waters of Cook Inlet. The Community Engagement Committee will review existing Council engagement strategies and practices to develop recommendations to improve Council engagement with rural and Alaska Native communities, review progress on CEC recommendations, NMFS Tribal Consultation and coordination efforts, and begin the process of developing recommendations for tools and methods for the Council to engage rural communities. The Council's ''Introduction to the Council Process'' seminar will provide information to the public on the Council process, how they can effectively patriciate in the process, and provide an opportunity for them to ask questions of the staff.

The Agendas are subject to change, and the latest versions will be posted at *meetings.npfmc.org/Meeting/Details/823.*

Public Comment

Public comment letters will be accepted and should be submitted either electronically at: *meetings.npfmc.org/Meeting/Details/823* or through the mail: North Pacific Fishery Management Council, 605 W 4th Ave., Suite 306, Anchorage, AK 99501–2252. Deadline for comments is September 27, 2019, at 12 p.m.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 271–2809 at least 7 working days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 4, 2019.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019–19382 Filed 9–6–19; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Global Markets Advisory Committee; Meeting

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of meeting.

SUMMARY: The Commodity Futures Trading Commission (CFTC) announces that on September 24, 2019, from 9:30 a.m. to 3:00 p.m., the Global Markets Advisory Committee (GMAC) will hold a public meeting in the Conference Center at the Commodity Futures Trading Commission's headquarters in Washington, DC. At this meeting, the GMAC will hear presentations on developments regarding the implementation of margin requirements for non-centrally cleared derivatives, and on EMIR 2.2 and responses to the consultation by the European Securities and Markets Authority on various aspects of EMIR 2.2 affecting third-country central counterparties.

DATES: The meeting will be held on September 24, 2019, from 9:30 a.m. to

3:00 p.m. Members of the public who wish to submit written statements in connection with the meeting should submit them by October 1, 2019.

ADDRESSES: The meeting will take place in the Conference Center at the CFTC's headquarters, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. You may submit public comments, identified by ''Global Markets Advisory Committee,'' by any of the following methods:

- *CFTC Website: http://comments.cftc.gov.* Follow the instructions for submitting comments through the Comments Online process on the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail, above.

Any statements submitted in connection with the committee meeting will be made available to the public, including publication on the CFTC website, *http://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Andrée Goldsmith, GMAC Designated Federal Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; (202) 418–6624.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public with seating on a first-come, first-served basis. Members of the public may also listen to the meeting by telephone by calling a domestic toll-free telephone or international toll or toll-free number to connect to a live, listen-only audio feed. Call-in participants should be prepared to provide their first name, last name, and affiliation.

Domestic Toll Free: 1–877–951–7311.

International Toll and Toll Free: Will be posted on the CFTC's website, *http://www.cftc.gov,* on the page for the meeting, under Related Links.

Pass Code/Pin Code: 2665194.

The meeting agenda may change to accommodate other GMAC priorities. For agenda updates, please visit the GMAC committee website at: *https://www.cftc.gov/About/CFTCCommittees/GlobalMarketsAdvisory/gmac_meetings.html.*

After the meeting, a transcript of the meeting will be published through a link on the CFTC's website at: *http://www.cftc.gov.* All written submissions provided to the CFTC in any form will also be published on the CFTC's website. Persons requiring special accommodations to attend the meeting because of a disability should notify the contact person above.

(Authority: 5 U.S.C. App. 2.)

Dated: September 4, 2019.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2019–19388 Filed 9–6–19; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Fees for Reviews of the Rule Enforcement Programs of Designated Contract Markets and Registered Futures Associations

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of 2019 schedule of fees.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') charges fees to designated contract markets and registered futures associations to recover the costs incurred by the Commission in the operation of its program of oversight of self-regulatory organization rule enforcement programs, specifically National Futures Association (''NFA''), a registered futures association, and the designated contract markets. Fees collected from each self-regulatory organization are deposited in the Treasury of the United States as miscellaneous receipts. The calculation of the fee amounts charged for 2019 by this notice is based upon an average of actual program costs incurred during fiscal year (''FY'') 2016, FY 2017, and FY 2018.

DATES: Each self-regulatory organization is required to remit electronically the applicable fee on or before November 8, 2019.

FOR FURTHER INFORMATION CONTACT: Anthony C. Thompson, Executive Director, Commodity Futures Trading Commission; (202) 418–5697; Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. For information on electronic payment, contact Jennifer Fleming; (202) 418–5034; Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background Information

A. General

This notice relates to fees for the Commission's review of the rule enforcement programs at the registered futures associations [1] and designated contract markets (''DCM''), each of which is a self-regulatory organization (''SRO'') regulated by the Commission. The Commission recalculates the fees charged each year to cover the costs of operating this Commission program.[2] The fees are set each year based on direct program costs, plus an overhead factor. The Commission calculates actual costs, then calculates an alternate fee taking volume into account, and then charges the lower of the two.[3]

B. Overhead Rate

The fees charged by the Commission to the SROs are designed to recover program costs, including direct labor costs and overhead. The overhead rate is calculated by dividing total Commission-wide overhead direct program labor costs into the total amount of the Commission-wide overhead pool. For this purpose, direct program labor costs are the salary costs of personnel working in all Commission programs. Overhead costs generally consist of the following Commission-wide costs: Indirect personnel costs (leave and benefits), rent, communications, contract services, utilities, equipment, and supplies. This formula has resulted in the following overhead rates for the most recent three years (rounded to the nearest whole percent): 190 percent for FY 2016, and 175 percent for FY 2017, and 182 precent for FY 2018.

C. Conduct of SRO Rule Enforcement Reviews

Under the formula adopted by the Commission in 1993, the Commission calculates the fee to recover the costs of its rule enforcement reviews and examinations, based on the three-year average of the actual cost of performing such reviews and examinations at each SRO. The cost of operation of the Commission's SRO oversight program varies from SRO to SRO, according to the size and complexity of each SRO's program. The three-year averaging computation method is intended to smooth out year-to-year variations in cost. Timing of the Commission's reviews and examinations may affect costs—a review or examination may span two fiscal years and reviews and examinations are not conducted at each SRO each year.

As noted above, adjustments to actual costs may be made to relieve the burden on an SRO with a disproportionately

[1] National Futures Association is the only registered futures association.

[2] *See* Section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a, and 31 U.S.C. 9701. For a broader discussion of the history of Commission fees, see 52 FR 46070, Dec. 4, 1987.

[3] 58 FR 42643, Aug. 11, 1993, and 17 CFR part 1, app. B.

large share of program costs. The Commission's formula provides for a reduction in the assessed fee if an SRO has a smaller percentage of United States industry contract volume than its percentage of overall Commission oversight program costs. This adjustment reduces the costs so that, as a percentage of total Commission SRO oversight program costs, they are in line with the pro rata percentage for that SRO of United States industry-wide contract volume.

The calculation is made as follows: The fee required to be paid to the Commission by each DCM is equal to the lesser of actual costs based on the three-year historical average of costs for that DCM or one-half of average costs incurred by the Commission for each DCM for the most recent three years, plus a pro rata share (based on average trading volume for the most recent three years) of the aggregate of average annual costs of all DCMs for the most recent three years.

The formula for calculating the second factor is: 0.5a + 0.5 vt = current fee. In this formula, ''a'' equals the average annual costs, ''v'' equals the percentage of total volume across DCMs over the last three years, and ''t'' equals the average annual costs for all DCMs. NFA has no contracts traded; hence, its fee is based simply on costs for the most recent three fiscal years. This table summarizes the data used in the calculations of the resulting fee for each entity:

TABLE 1—SUMMARY OF DATA USED IN FEE CALCULATIONS

	Actual total costs			3-Year average actual costs	3-Year average volume (%)	Adjusted volume costs	2019 Assessed fee	Refund of over payment from FY 2018	2019 Assessed fee
	FY 2016	FY 2017	FY 2018						
CANTOR	$	$60,045	$56,551	$38,865.55	0.00	$19,433	$19,433	$(238)	$19,195
CBOE Futures Ex	227,059	31,026	16,033	91,372.64	1.44	54,354	54,354	(217)	54,137
CBOT	28,720	96,442	2,296	42,486.01	30.55	204,602	42,486	(765)	41,721
CME	372,278	472,157	235,127	359,854.31	42.65	435,963	359,854	(3,744)	356,110
ERIS		53,010	33,170	28,726.90	0.01	14,423	14,423	(211)	14,212
ICE Futures US	386,719	199,090	50,096	211,968.03	7.70	152,203	152,203	(1,354)	150,849
MGE	14,314	42,226	438	18,992.66	0.05	9,816	9,816	(171)	9,645
NASDAQ OMX–PBOT		251,200	109,413	120,204.37	0.73	64,470	64,470	(1,034)	63,436
NODAL		100,600	33,162	44,587.32	0.02	22,396	22,396	(399)	21,997
NYMEX/COMEX	242,792	212,798	3,397	152,995.57	16.37	174,773	152,996	(1,688)	151,308
North American Derivatives Exchange Inc	81,758	84,666	6,986	57,803.18	0.217	30,206	30,206	(347)	29,859
OCX-One Chicago, LLC	282	36,444	61,276	32,667.15	0.256	17,868	17,868	(165)	17,703
Subtotal	1,353,922	1,639,704	607,946	1,200,524		1,200,504	940,503	(10,333)	930,170
National Futures Association	282,405	660,710	507,673	483,595.99			483,596	(5,240)	478,356
Total	1,636,327	2,300,414	1,115,619	1,684,120			1,424,099	(15,573)	1,408,526

The FY 2019 fees reflect refunds of overpayments that resulted from an error regarding the amount of overhead calculated in the FY 2018 fees. As a result, the overhead factor was reduced 0.06 percent, the FY 2018 fees were recalculated, and credits in the amount of the overpayments were applied to the FY 2019 fees.

An example of how the fee is calculated for one exchange, the Chicago Board of Trade, is set forth here:

a. Actual three-year average costs = $42,486.

b. The alternative computation is: (.5) ($42,486) + (.5) (.305465) ($1,200,524) = $204,602.

c. The fee is the lesser of a. or b.; in this case $42,486.

d. The refund for overpayment of $765.00 is applied, bringing the fee to $41,721.

As noted above, the alternative calculation based on contracts traded is not applicable to NFA because it is not a DCM and has no contracts traded. The Commission's average annual cost for conducting oversight review of the NFA rule enforcement program during fiscal years 2016 through 2018 was $483,596. The fee to be paid by the NFA for the current fiscal year is $483,596.

II. Schedule of Fees

Fees for the Commission's review of the rule enforcement programs at the registered futures associations and DCMs regulated by the Commission are as follows:

TABLE 2—SCHEDULE OF FEES

	3-Year average actual costs	3-Year average volume (%)	Adjusted volume costs	2019 Assessed fee	Refund of over payment from FY 2018	2019 Assessed fee
CANTOR	$38,865.55	0.00	$19,433	$19,433	$(238)	$19,195
CBOE Futures Ex	91,372.64	1.44	54,354	54,354	(217)	54,137
CBOT	42,486.01	30.55	204,602	42,486	(765)	41,721
CME	359,854.31	42.65	435,963	359,854	(3,744)	356,110
ERIS	28,726.90	0.01	14,423	14,423	(211)	14,212
ICE Futures US	211,968.03	7.70	152,203	152,203	(1,354)	150,849
MGE	18,992.66	0.05	9,816	9,816	(171)	9,645
NASDAQ OMX–PBOT	120,204.37	0.73	64,470	64,470	(1,034)	63,436
NODAL	44,587.32	0.02	22,396	22,396	(399)	21,997
NYMEX/COMEX	152,995.57	16.37	174,773	152,996	(1,688)	151,308
North American Derivatives Exchange Inc	57,803.18	0.217	30,206	30,206	(347)	29,859

TABLE 2—SCHEDULE OF FEES—Continued

	3-Year average actual costs	3-Year average volume (%)	Adjusted volume costs	2019 Assessed fee	Refund of over payment from FY 2018	2019 Assessed fee
OCX-One Chicago, LLC	32,667.15	0.256	17,868	17,868	(165)	17,703
Subtotal	1,200,524		1,200,504		(10,333)	930,170
National Futures Association	483,595.99			483,596	(5,240)	478,356
Total	*1,684,120*			1,424,099	(15,573)	1,408,526

III. Payment Method

The Debt Collection Improvement Act (DCIA) requires deposits of fees owed to the government by electronic transfer of funds. *See* 31 U.S.C. 3720. For information about electronic payments, please contact Jennifer Fleming at (202) 418–5034 or *jfleming@cftc.gov,* or see the CFTC website at *http://www.cftc.gov,* specifically, *http://www.cftc.gov/cftc/cftcelectronicpayments.htm.* Fees collected from each self-regulatory organization shall be deposited in the Treasury of the United States as miscellaneous receipts. *See* 7 U.S.C. 16a.

Issued in Washington, DC, on this 4th day of September, 2019, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2019–19438 Filed 9–6–19; 8:45 am]

BILLING CODE 6351–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2019–0050]

Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Consumer Financial Protection (Bureau) is requesting to renew the Office of Management and Budget (OMB) approval for an existing information collection titled, ''Truth in Savings (Regulation DD) 12 CFR 1030.''

DATES: Written comments are encouraged and must be received on or before November 8, 2019 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: PRA_Comments@cfpb.gov.* Include Docket No. CFPB–2019–0050 in the subject line of the message.
- *Mail:* Comment Intake, Bureau of Consumer Financial Protection (Attention: PRA Office), 1700 G Street NW, Washington, DC 20552.
- *Hand Delivery/Courier:* Comment Intake, Bureau of Consumer Financial Protection (Attention: PRA Office), 1700 G Street NW, Washington, DC 20552.

Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.regulations.gov.* Requests for additional information should be directed to Darrin King, PRA Officer, at (202) 435–9575 or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: Truth in Savings (Regulation DD) 12 CFR 1030.

OMB Control Number: 3170–0004.

Type of Review: Extension without change of a currently approved collection.

Affected Public: Private Sector.

Estimated Number of Annual Respondents: 144.

Estimated Total Annual Burden Hours: 625,187.[1]

[1] The Bureau shares supervisory authority for Regulation DD with the Federal Reserve Board (12 CFR 1030, OMB No. 7100–0271), the Department of Treasury's Office of the Comptroller of the Currency (12 CFR 1030, OMB No. 1557–0176), and the Federal Deposit Insurance Corporation (12 CFR 230, OMB No. 3064–0084). The total estimated burden for all agencies is 749,982 hours for a total of 5,457 respondents.

Abstract: Consumers rely on the disclosures required by the Truth in Savings Act (TISA) and Regulation DD to facilitate informed decision-making regarding deposit accounts offered at depository institutions. Without this information, consumers would be severely hindered in their ability to assess the true costs and terms of the deposit accounts offered. Federal agencies and private litigants use the records to ascertain whether accurate and complete disclosures of depository accounts have been provided to consumers. This information also provides the primary evidence of law violations in TISA enforcement actions brought by the Bureau. Without the Regulation DD recordkeeping requirement, the Bureau's ability to enforce TISA would be significantly impaired. This is a routine renewal of an existing information collection. The Bureau is not proposing any policy changed pursuant to this notice.

Request For Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Dated: September 4, 2019.

Darrin A. King,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2019–19385 Filed 9–6–19; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2018–FSA–014]

Privacy Act of 1974; System of Records

AGENCY: Federal Student Aid, U.S. Department of Education.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Chief Operating Officer for Federal Student Aid (FSA) of the Department of Education (Department) publishes this notice of a modified system of records entitled ''National Student Loan Data System (NSLDS)'' (18–11–06). The information contained in this system is maintained for various purposes relating to students and borrowers. This includes determining student/borrower eligibility for Federal student financial assistance under the programs authorized by title IV of the Higher Education Act of 1965, as amended (HEA). The information contained in this system is also maintained to assist institutions of higher education in participating in and administering the title IV HEA programs by verifying the eligibility of borrowers and tracking loans. The information maintained in this system is also maintained to assist the Department's oversight and administration of the title IV HEA programs including evaluating their effectiveness.

DATES: Submit your comments on this modified system of records notice on or before October 9, 2019.

This modified system of records notice will become applicable upon publication in the **Federal Register** on September 9, 2019. Modified routine uses—(1)(f), 1(g), and (1)(p), (3), (5), (7)(b), (8), (11), and (12)—and new routine use (13) outlined in the paragraph entitled ''ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES'' will become applicable on October 9, 2019, unless the modified system of records notice needs to be changed as a result of public comment. The Department will publish any changes resulting from public comment.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the ''help'' tab.
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about this modified system of records, address them to: Director, Systems Integration Division, System Operations and Aid Delivery Management Services, Business Operations, Federal Student Aid (FSA), U.S. Department of Education, Union Center Plaza (UCP), 830 First Street NE, Room 41F1, Washington, DC 20202–5454.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Valerie Sherrer, Director, System Integration Manager, System Integration Division, System Operations and Aid Delivery Management Services, Business Operations, FSA, U.S. Department of Education, UCP, 830 First Street NE, Room 41F1, Washington, DC 20202–5454.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), you may call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Introduction

The National Student Loan Data System (18–11–06) was last published in full in the **Federal Register** on June 28, 2013 (78 FR 38963) and most recently altered on April 2, 2014 (79 FR 18534).

One of the reasons that the Department is modifying the system of records is to indicate that the purposes of the system include assisting the Department in identifying individuals who have student loans that may be eligible for a total and permanent disability (TPD) discharge and streamlining the process for applying for a TPD discharge. Three purposes of the system have been updated to the section entitled ''PURPOSE(S) OF THE SYSTEM'' to include providing data for the calculation of performance metrics related to gainful employment programs, informing qualified individuals about TPD discharges and streamlining the process for applying for a TPD discharge, and providing additional consumer tools to prospective students on loan repayment rates, completion rates, and median debt to better evaluate the effectiveness of institutions. Furthermore, the section is being modified to remove providing an Exit Counseling tool for grant and loan programs as a purpose of the system. The Data Challenges and Appeals Solutions (DCAS) (18–11–18) system of records notice published in the **Federal Register** on September 21, 2015 (80 FR 56969–56972) covers records that allow institutions to electronically challenge the data used in the gainful employment calculations. The Department published the DCAS system of records notice but did not utilize the system it was intended to cover. The Department will publish a modified system of records notice amending the DCAS system of records notice to remove references to gainful employment calculations in order to not have duplicating system of records notices for these records.

We also have modified the section entitled ''SECURITY CLASSIFICATION'' to change it from ''none'' to ''unclassified'' and the section entitled ''SYSTEM LOCATION'' to reflect the current name of the data center, and to include the location of the system manager as well as an additional location for the system. The Department is also including the two locations of customer service centers where records are also maintained. The section entitled ''SYSTEM MANAGER'' also has been updated to reflect the creation of the System Integration Division within FSA's System Operations and Aid Delivery Management Services.

The section entitled ''CATEGORIES OF RECORDS IN THE SYSTEM'' has been updated to include information obtained from other Federal agencies to assist the Department in identifying individuals who have student loans that may be eligible for a TPD discharge and

to streamline the process for applying for a TPD discharge.

The section entitled ''RECORD SOURCE CATEGORIES'' has been updated to include information obtained from other Federal agencies and from other persons or entities from which data is obtained under the routine uses set forth in the system of records notice. This section also has been updated to indicate that information is obtained from students and parents, rather than indicating that information is only obtained via the ''Free Application for Federal Student Aid completed by students and parents.''

The Department is modifying programmatic routine use (1)(f) to permit the Department to disclose records to support governmental research and policy analysis by governmental organizations at the Federal, State, or local level, rather than by Federal State, and local agencies, and to replace a requirement ensuring compliance with the Privacy Act with a requirement that the recipient must agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records.

The Department is modifying programmatic routine use (1)(g) to clarify that in order to support Federal budget analysts in the development of budget needs and forecasts, the Department may disclose records to the Congressional Budget Office (CBO), in addition to Federal and State agencies.

The Department is also making a minor modification to programmatic routine use (1)(p) to clarify that the U.S. Department of the Treasury is an additional Federal agency with which the Department may share data in NSLDS in order for the Department to evaluate program effectiveness and to provide the public with greater transparency about programs that receive title IV funds.

The Department is removing routine use (2) entitled ''Disclosure for Use by Other Law Enforcement Agencies'' because the component of FSA that maintains the system is not a law enforcement agency.

The Department is modifying routine use (3)(c), formerly routine use (4)(c), to insert the word ''person'' in place of the word ''individual'' to avoid confusion because ''individual'' is a defined term in the Privacy Act.

The Department is also modifying routine use (5), formerly routine use (6), to remove the reference to ''safeguards required under the Privacy Act (5 U.S.C. 552a(m))'' to now require that all contractors agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records. The Department is also removing language that indicated that the Department would require these safeguards ''before entering into such a contract'' to instead indicate that they will be included ''as part of such a contract.''

The Department is updating routine use (7)(b), formerly routine use (8)(b), to include FSA contractors as entities to which the Department may disclose records in order to permit FSA contractors to make hiring or retention decisions or to take other personnel actions with respect to their own employees, to the extent that they determine that such records are relevant and necessary to their decision or action.

The Department is modifying routine use (8), formerly routine use (9), to standardize it with other language used by the Department to permit disclosure of records in the Department's systems of records when they are relevant and necessary to employee grievances, complaints, or disciplinary actions.

The Department is modifying routine use (11), formerly routine use (12), to permit the Department to disclose records to the CBO, in addition to the Office of Management and Budget, as necessary to fulfill the requirements of the Federal Credit Reform Act of 1990, as amended, in accordance with 2 U.S.C. 661b.

Pursuant to the requirements in Office of Management and Budget Memorandum M–17–12 entitled ''Preparing for and Responding to a Breach of Personally Identifiable Information,'' the Department is also adding an additional routine use (13) to permit the Department to disclose records from this system of records in the course of assisting another Federal agency or entity in responding to a breach of data as well as modifying routine use (12), formerly routine use (13), permitting the Department to disclose records from this system of records in responding to a breach of data in this system of records.

The Department is updating the section entitled ''POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS'' to reference the current, updated Department records retention and disposition schedule, as approved by the National Archives and Records Administration (NARA), covering records in this system.

The section entitled ''ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS'' has also been modified to more clearly and comprehensively explain how the data in NSLDS is protected.

The sections entitled ''RECORD ACCESS PROCEDURES,'' ''CONTESTING RECORD PROCEDURES,'' and ''NOTIFICATION PROCEDURES'' were modified to define the ''necessary particulars'' needed to access, contest, or be notified of a record.

The Department has also added a section entitled ''HISTORY.''

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: September 3, 2019

Mark A. Brown,

Chief Operating Officer, Federal Student Aid.

For the reasons discussed in the preamble, the Chief Operating Officer, Federal Student Aid (FSA), of the U.S. Department of Education (Department), publishes a notice of a modified system of records to read as follows:

SYSTEM NAME AND NUMBER:

National Student Loan Data System (NSLDS) (18–11–06).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Director, System Integration Division, System Operations and Aid Delivery Management Services, Business Operations, Federal Student Aid (FSA), U.S. Department of Education, UCP, 830 First Street, NE, room 41F1, Washington, DC 20202–5454.

Mid-Atlantic Data Center (MDC), 250 Burlington Drive, Clarksville, Virginia 23927–3201.

Briefcase Systems (BSD), 3330 N. Washington Street, Arlington, VA 22201.

The following two listings are the locations of the NSLDS Customer Service Centers:

NSLDS Call Center is located at 3833 Greenway Drive, Lawrence, Kansas 66046.

General Dynamics Information Technology (GDIT), 2450 Oakdale Blvd., Coralville, IA 52241.

SYSTEM MANAGER(S):

Director, System Integration Division, System Operations and Aid Delivery Management Services, Business Operations, Federal Student Aid (FSA), U.S. Department of Education, UCP, 830 First Street NE, Room 41F1, Washington, DC 20202–5454.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authority under which the system is maintained includes sections 101, 102, 132(i), 485, and 485B of the Higher Education Act of 1965, as amended (HEA)(20 U.S.C. 1001, 1002, 1015a(i), 1092, and 1092b) and section 431 of the General Education Provisions Act (20 U.S.C. 1231a(2)-(3)). The collection of Social Security numbers (SSNs) of borrowers who are covered by this system is authorized by 31 U.S.C. 7701 and Executive Order 9397 (November 22, 1943), as amended by Executive Order 13478 (November 18, 2008).

PURPOSE(S) OF THE SYSTEM:

The information contained in this system is maintained for the following purposes relating to students and borrowers: (1) To determine student/borrower eligibility for federal student financial aid programs authorized by title IV of the HEA by NSLDS pre- and post-screening processes; (2) to report changes in student/borrower enrollment status and enrollment in gainful employment programs; (3) to track loan borrowers and students who owe grant overpayment amounts (debtors); (4) to provide web-based access for borrowers/students to their loan, grant, and enrollment data; (5) to maintain information on the status of student loans; (6) to maintain information on the Federal Pell Grant program, the Academic Competitiveness Grants (ACG) program, the National Science and Mathematics Access to Retain Talent (National SMART) Grant program, the Teacher Education Assistance for College and Higher Education (TEACH) Grant program, the Federal Supplemental Educational Opportunity Grant (FSEOG) program, and the Iraq and Afghanistan Service Grant program awards to students; (7) to provide borrowers and NSLDS users with loan refund/cancellation details; (8) to track the level of study and Classification of Instructional Programs (CIP) code of students' programs to limit eligibility for Direct Subsidized Loans to no more than 150 percent of the published length of the educational program in which the student is enrolled, and to determine when a borrower who enrolls after reaching the 150 percent limit will be responsible for the accruing interest on outstanding Direct Subsidized Loans; (9) to inform qualifying individuals about total and permanent disability (TPD) discharges and to streamline the process for applying for a discharge; and (10) to provide consumer tools to prospective students and borrowers to better evaluate the effectiveness of institutions' costs, financial aid, loan repayment rates, completion rates, median debts, and aggregate earnings of title IV aid recipients who were enrolled at postsecondary institutions participating in the title IV HEA programs so that prospective students can make informed decisions about which postsecondary institution to attend.

The information in NSLDS is also maintained for the following purposes relating to institutions of higher education participating in and administering the title IV HEA programs: (1) To permit Department staff, Department contractors, guaranty agencies, eligible lenders, and eligible institutions of higher education to verify the eligibility of a student, potential student, or parent for loans or Pell grants; (2) to provide student aggregate loan calculations to educational institutions; (3) to track loan transfers from one holder or servicer to another; (4) to determine default rates for educational institutions, guaranty agencies, and lenders; (5) to prepare electronic financial aid histories on students or borrowers for educational institutions, guaranty agencies, Department staff, and Department contractors; (6) to alert educational institutions of changes in financial aid eligibility of students via the Transfer Student Monitoring process; (7) to assist Department staff, Department contractors and agents, guaranty agencies, educational institutions, lenders, and servicers in collecting debts arising from the receipt of title IV, HEA funds; (8) to assess title IV, HEA program activities by guaranty agencies, educational institutions, lenders, and servicers; (9) to display organizational contact information provided by educational institutions, guaranty agencies, lenders, and servicers; (10) to provide reporting capabilities for educational institutions, guaranty agencies, lenders, and servicers for use in title IV, HEA administrative functions and for the Department for use in oversight and compliance; (11) to provide financial institutions and servicers, Department staff, and Department contractors with contact information on loan holders for use in the collection of loans; (12) to provide schools and servicers with information to resolve overpayments of Pell, ACG, National SMART, TEACH, Iraq and Afghanistan Service Grants, and FSEOG grants; (13) to assist Department staff, contractors, guaranty agencies, and the Department of Justice in the collection of debts owed to the Department under title IV of the HEA; (14) to obtain data on and to report on students in a gainful employment program for the purposes of establishing whether a particular gainful employment program is successfully preparing students to be gainfully employed and making this information available to the institution; (15) to obtain data and report the level of study, CIP code, and published length of an educational program in which a student receiving title IV, HEA Federal student aid is enrolled to ensure his or her eligibility for Direct Subsidized Loans is limited to no more than 150 percent of the published length of the educational program, and to determine when a borrower who enrolls after reaching the 150 percent limit will be responsible for the accruing interest on outstanding Direct Subsidized Loans; (16) to provide consumer tools that are designed to simplify information that prospective students receive about costs, financial aid, loan repayment rates, completion rates, median debts, and aggregate earnings of title IV aid recipients who were enrolled at postsecondary institutions participating in the title IV, HEA programs so that these prospective students can make informed decisions about which postsecondary institution to attend, and (17) to provide data for institutions to challenge their gainful employment performance metrics.

The information maintained in this system is also maintained for the following purposes relating to the Department's oversight and administration of the title IV, HEA programs: (1) To assist audit and program review planning; (2) to support research studies and policy development; (3) to conduct budget analysis and program review planning; (4) to provide information that supports the Department's compliance with the

Federal Credit Reform Act of 1990, as amended (CRA) (2 U.S.C. 661 *et seq.*); (5) to ensure only authorized users access the database and to maintain a history of the student/borrower information reviewed; (6) to track the Department's interest in loans funded through the Ensuring Continued Access to Student Loan Act of 2008 (ECASLA) (P.L. 110–227); (7) to track TEACH grants that have been converted to loans; (8) to track eligibility for Public Service Loan Forgiveness; (9) to assist in the calculation of metrics related to gainful employment programs; (10) to provide data for program oversight and strategic decision-making in the administration of higher education programs; (11) to track eligibility for Direct Subsidized Loans and interest subsidy based upon the level of study, CIP code, and published length of the educational program in which a student is enrolled; and (12) to evaluate the effectiveness of an institution's education programs, and help provide information to the public at the institutional and programmatic level on this effectiveness.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on individual recipients of aid under the title IV, HEA programs.

This system contains records on borrowers who received loans under one of the programs authorized under title IV of the HEA including the (1) Direct Loan Program, (2) Federal Family Education Loan (FFEL) Program, (3) Federal Insured Student Loan (FISL) Program, and (4) Federal Perkins Loan Program (including National Defense Student Loans, National Direct Student Loans, and Perkins Expanded Lending and Income Contingent Loans) (Perkins Loans). The system also contains records on recipients of Federal Pell Grants, ACG, National SMART Grants, TEACH Grants, and Iraq and Afghanistan Service Grants, as well as on individuals who owe an overpayment on a Federal Pell Grant, an ACG, a National SMART Grant, a FSEOG, an Iraq and Afghanistan Service Grant, or a Federal Perkins Loan.

NSLDS further contains student enrollment information for individuals who have received title IV, HEA student assistance as well as Master Conduit Loan Program Data, Master Loan Participation Program (LPP) Data, and loan-level detail on FFEL Subsidized, Unsubsidized, and PLUS loans funded through those programs.

The system also contains records on students who are title IV, HEA recipients and who attended, or who are attending, a gainful employment program at a postsecondary educational institution.

The system also contains records on the level of study, CIP code, and published length of an educational program in which a student receiving title IV, HEA Federal student aid is enrolled to limit his or her eligibility for Direct Subsidized Loans to no more than 150 percent of the published length of the educational program in which the student is enrolled, and to determine when a borrower who enrolls after reaching the 150 percent limit will be responsible for the accruing interest on outstanding Direct Subsidized Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in NSLDS include, but are not limited to: (1) Borrower identifier information including SSN, name, date of birth, address, phone number, email address, and driver's license information; (2) information on the borrower's loan(s) covering the period from the origination of the loan through final payment, cancellation, consolidation, discharge, or other final disposition including details such as loan amount, disbursements, balances, loan status, repayment plan payments and related information, collections, claims, deferments, forbearances, refunds, and cancellations; (3) for students who began a program of study that prepares them for gainful employment in a recognized occupation pursuant to sections 1001 and 1002 of the HEA (''gainful employment program''), student identifiers including the student's SSN, date of birth, and name, student enrollment information including the Office of Postsecondary Education identification number (OPEID number) of the institution, the CIP code for the gainful employment program in which the student enrolled, and, if the student completed the program, the completion date and the CIP code of the completed program, the level of study, the amount of the student's private educational loan debt, the amount of institutionally provided financing owed by the student, and whether the student matriculated to a higher credentialed program at the same institution or another institution; (4) aggregated income information on graduates and non-completers of particular gainful employment programs, and the median loan debt incurred by students enrolled in the gainful employment program, regardless of whether they completed the program; (5) student demographic information, such as dependency status, citizenship, veteran status, marital status, gender, income and asset information (including income and asset information on the student's spouse, if married), expected family contribution, and address; (6) information on the parent(s) of a dependent recipient, including, but not limited to: Name, date of birth, SSN, marital status, email address, highest level of schooling completed, and income and asset information; (7) information related to a borrower's application for an income-driven repayment plan, including information such as current income, family size, repayment plan selection, and, if married, information about the borrower's spouse; (8) Federal Pell Grant, ACG Grant, National SMART Grant, TEACH Grant, and Iraq and Afghanistan Service Grant amounts and dates of disbursement; (9) Federal Pell Grant, ACG Grant, National SMART Grant, Iraq and Afghanistan Service Grant, FSEOG, and Federal Perkins Loan Program overpayment amounts; (10) demographic and contact information on the guaranty agency that guarantees the borrower's FFEL loan and the lender(s), holder(s), and servicer(s) of the borrower's loan(s); (11) NSLDS user profiles that include name, SSN, date of birth, employer, and NSLDS user name; (12) information concerning the date of any default on loans and the aggregated loan data to support cohort default rate calculations for educational institutions, financial institutions, and guaranty agencies; (13) pre- and post-screening results used to determine a student's or parent's aid eligibility; (14) information on financial institutions participating in the loan participation and sale programs established by the Department under ECASLA, including the collection of: ECASLA loan-level funding amounts, dates of ECASLA participation for financial institutions, dates and amounts of loans sold to the Department under ECASLA, and the amount of loans funded by the Department's programs but repurchased by the lender; (15) information on the student's educational institution, level of study, the CIP code, and published length for the program in which the student enrolled for an institution or programs of studies at the institution; and (16) information obtained pursuant to matching programs, which includes Medical Improvement Not Expected disability status from the U.S. Social Security Administration (SSA) and disability determination dates for any borrower who is a veteran and has received a U.S. Department of Veterans Affairs (VA) disability compensation benefit due to a 100% disabling service-connected disability rating or a determination that the veteran is totally

disabled based on an individual unemployability rating, to assist the Department in identifying individuals who have student loans that may be eligible for a TPD discharge and to streamline the process for applying for a TPD discharge.

RECORD SOURCE CATEGORIES:

Information is obtained from Federal agencies, including SSA and VA, guaranty agencies, educational institutions, financial institutions and servicers, and students and parents. Information is also obtained from other Department systems such as the Federal Loan Servicers (covered by the system of records entitled ''Common Services for Borrowers (CSB)''); Debt Management Collection System (covered by the system of records entitled ''Common Services for Borrowers (CSB)''); Common Origination and Disbursement System (covered by the system of records entitled ''Common Origination and Disbursement (COD) System''); Financial Management System (covered by the system of records entitled ''Financial Management System (FMS)''); Student Aid internet Gateway, Participant Management System (covered by the system of records entitled ''Student Aid internet Gateway (SAIG), Participation Management System''); Postsecondary Education Participants System (covered by the system of records entitled ''Postsecondary Education Participants System''); and Central Processing System (covered by the system of records entitled ''Federal Student Aid Application File''). Information in this system also may be obtained from other persons or entities from which data is obtained under routine uses set forth below.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records notice without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act of 1974, as amended (Privacy Act), under a computer matching agreement.

(1) *Program Disclosures.* The Department may disclose records to the specified users for the following program purposes:

(a) To verify the identity of the applicant involved, the accuracy of the record, or to assist with the determination of program eligibility and benefits, as well as institutional program eligibility, the Department may disclose records to the applicant, guaranty agencies, educational institutions, financial institutions and servicers, and to Federal and State agencies;

(b) To support default rate calculations and/or provide information on borrowers' current loan status, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and State agencies;

(c) To determine if educational programs lead to gainful employment in a recognized occupation, the Department may disclose records to educational institutions;

(d) To provide financial aid history information to aid in their administration of title IV, HEA programs, the Department may disclose records to educational institutions, guaranty agencies, loan holders, or servicers;

(e) To support auditors and program reviewers in planning and carrying out their assessments of title IV, HEA program compliance, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and to Federal, State, and local agencies;

(f) To support governmental researchers and policy analysts, the Department may disclose records to governmental organizations at the Federal, State, or local level, using safeguards for system integrity and provided that the recipient agrees to establish and maintain safeguards to protect the security and confidentiality of the disclosed records;

(g) To support Federal budget analysts in the development of budget needs and forecasts, the Department may disclose records to the Congressional Budget Office (CBO) and to Federal and State agencies;

(h) To assist in locating holders of loan(s), the Department may disclose records to students/borrowers, guaranty agencies, educational institutions, financial institutions and servicers, and Federal agencies;

(i) To assist analysts in assessing title IV, HEA program participation by guaranty agencies, educational institutions, and financial institutions and servicers, the Department may disclose records to Federal and State agencies;

(j) To assist loan holders in locating borrowers, the Department may disclose records to guaranty agencies, educational institutions, financial institutions that hold an interest in the loan and their servicers, and to Federal agencies;

(k) To assist with meeting requirements under the CRA, the Department may disclose records to Federal agencies;

(l) To assist program administrators with tracking refunds and cancellations of title IV, HEA loans, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and to Federal and State agencies;

(m) To enforce the terms of a loan, assist in the collection of a loan, or assist in the collection of an aid overpayment, the Department may disclose records to guaranty agencies, loan servicers, educational institutions and financial institutions, to the Department of Justice and private counsel retained by the Department of Justice, and to other Federal, State, or local agencies;

(n) To assist the Department in tracking loans funded under ECASLA, the Department may disclose records to Federal agencies;

(o) To assist the Department in complying with requirements that limit eligibility for Direct Subsidized Loans to no more than 150 percent of the published length of the educational program in which the student is enrolled, and to determine when a borrower who enrolls after reaching the 150 percent limit will be responsible for the interest accruing on outstanding Direct Subsidized Loans thereafter, the Department may disclose records to the applicant, guaranty agencies, educational institutions, financial institutions and servicers, and to Federal and State agencies; and

(p) To obtain data needed to assist the Department in evaluating the effectiveness of an institution's education programs and to provide the public with greater transparency about the level of economic return of an educational institution and their programs that receive title IV, HEA program assistance, the Department may disclose records to educational institutions and to Federal and State agencies, including the Social Security Administration and the U.S. Department of the Treasury.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency,

whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, Executive Order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosure.*

(a) *Introduction.* In the event that one of the following parties listed in sub-paragraphs (i) through (v) is involved in judicial or administrative litigation or ADR, or has an interest in such litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department or any of its components; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity where the Department of Justice (DOJ) agrees to or has been requested to provide or arrange for representation of the employee; or

(iv) Any Department employee in his or her individual capacity where the Department requests representation for or has agreed to represent the employee; or

(v) The United States, where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to the judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Adjudicative Disclosure.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear or to a person or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to the adjudicative body, person, or entity.

(d) *Disclosure to Parties, Counsel, Representatives, and Witnesses.* If the Department determines that disclosure of certain records is relevant and necessary to judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(4) *Freedom of Information Act (FOIA) or Privacy Act Advice Disclosure.* The Department may disclose records to the DOJ or the Office of Management and Budget (OMB) if the Department seeks advice regarding whether records maintained in this system of records are required to be disclosed under the FOIA or the Privacy Act.

(5) *Contract Disclosure.* If the Department contracts with an entity to perform any function that requires disclosing records to the contractor's employees, the Department may disclose the records to those employees. As part of such a contract, the Department shall require the contractor to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records.

(6) *Congressional Member Disclosure.* The Department may disclose records to a Member of Congress in response to an inquiry from the Member made at the written request of the individual whose records are being disclosed. The Member's right to the information is no greater than the right of the individual who requested it.

(7) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies, Professional Organizations, or FSA Contractors.* The Department may disclose a record to a Federal, State, local, or other public authority, professional organization, or FSA contractor, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(8) *Employee Grievance, Complaint, or Conduct Disclosure.* If a record is relevant and necessary to a grievance, complaint, or disciplinary proceeding involving a present or former employee of the Department, the Department may disclose a record from this system of records during the course of investigation, fact-finding, mediation, or adjudication to any party to the grievance, complaint, or action; to the party's counsel or representative; to a witness; or to a designated fact-finder, mediator, or other person designated to resolve issues or decide the matter.

(9) *Labor Organization Disclosure.* The Department may disclose records from this system of records to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations recognized under 5 U.S.C. 71 when relevant and necessary to their duties of exclusive representation.

(10) *Disclosure to the DOJ.* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(11) *Disclosure to the OMB or CBO for CRA Support.* The Department may disclose records to OMB or CBO as necessary to fulfill CRA requirements in accordance with 2 U.S.C. 661b.

(12) *Disclosure in the Course of Responding to Breach of Data.* The Department may disclose records from this system to appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that there has been a breach of the system of records; (b) the Department has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department (including its information systems, programs and operations), the Federal government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(13) *Disclosure in Assisting another Agency in Responding to a Breach of Data.* The Department may disclose records from this system to another Federal agency or Federal entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose the following information to a consumer reporting agency regarding a valid overdue claim of the Department: (1) The name, address, taxpayer identification number, and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined in 15 U.S.C. 1681a(f) and 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The records are stored electronically.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

In order for users to retrieve student/borrower information, they must supply the student/borrower SSN, name, and date of birth.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

All records are retained and disposed of in accordance with ED Records Schedule 051: National Student Loan Data System (NSLDS) (DAA–0441–2017–0004) (ED 051). Records are destroyed 30 years after cutoff. Cutoff is annually when an applicable account is paid-in-full.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Authorized users: Access to the system is limited to authorized NSLDS program personnel and contractors responsible for administering the NSLDS program. Authorized personnel include ED employees and officials, financial and fiscal management personnel, computer personnel and program managers who have responsibilities for implementing the NSLDS program. Read-only users: Read-only access is given to servicers, holders, financial/fiscal management personnel, and institutional personnel.

Physical safeguards: Magnetic tapes, disc packs, computer equipment, and other forms of data are stored in areas where fire and life safety codes are strictly enforced. Security guards are staffed 24 hours a day, seven days a week, to perform random checks on the physical security of the record storage areas.

Procedural safeguards: A password is required to access the terminal, and a data set name controls the release of data to only authorized users. In addition, all sensitive data is encrypted using Oracle Transparent Data Encryption functionality. Access to records is strictly limited to those staff members trained in accordance with the Privacy Act and Automatic Data Processing (ADP) security procedures. Contractors are required to maintain confidentiality safeguards with respect to these records. Contractors are instructed to make no further disclosure of the records except as authorized by the System Manager and permitted by the Privacy Act. All individuals who have access to these records receive appropriate ADP security clearances. Department personnel make site visits to ADP facilities for the purpose of ensuring that ADP security procedures continue to be met. Privacy Act and ADP system security requirements are specifically included in contracts. The NSLDS project directors, project officers, and the system manager oversee compliance with these requirements.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, you must contact the system manager with the necessary particulars such as your name, date of birth, SSN, the name of the school or lender from which the loan or grant was obtained, and any other identifying information requested by the Department while processing the request, to distinguish between individuals with the same name. Requests by an individual for access to a record must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record in the system of records, you must contact the system manager with the necessary particulars such as your name, date of birth, SSN, the name of the school or lender from which the loan or grant was obtained, and any other identifying information requested by the Department while processing the request, to distinguish between individuals with the same name. You must also identify the specific item(s) to be changed, and provide a justification for the change, including any supporting documentation. Requests to amend a record must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

NOTIFICATION PROCEDURES:

If you wish to determine whether a record exists regarding you in this system of records, you must contact the system manager with the necessary particulars such as your name, date of birth, SSN, the name of the school or lender from which the loan or grant was obtained, and any other identifying information requested by the Department while processing the request, to distinguish between individuals with the same name. Requests for notification about whether the system of records contains information about an individual must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

The System of Records entitled ''National Student Loan Data System (NSLDS) program'' (18–11–06), was published on June 29, 1994 (59 FR 33491–33494), altered on December 20, 1994 (FR 65532–65535), republished in full on December 27, 1999 (64 FR 72395–72397), altered on September 7, 2010 (75 FR 54331–54336), altered and republished in full on June 24, 2011 (76 FR 37095–37100), last published in full in the **Federal Register** on June 28, 2013 (78 FR 38963–38969), and most recently altered on April 2, 2014 (79 FR 18534–18536).

[FR Doc. 2019–19354 Filed 9–6–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Secretary of Energy Advisory Board (SEAB). The SEAB was reestablished pursuant to the Federal Advisory Committee Act. This notice is provided in accordance with the Act.

DATES: Wednesday, October 2, 2019; 1:00 p.m.–4:00 p.m.

ADDRESSES: The Drake Hotel, 140 E Walton Place, Parkside Room, Chicago, IL 60611.

FOR FURTHER INFORMATION CONTACT: Kurt Heckman, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585; email: *seab@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Board was established to provide advice and

recommendations to the Secretary on the Administration's energy policies; the Department's basic and applied research and development activities; economic and national security policy; and other activities as directed by the Secretary.

Purpose of the Meeting: This meeting is the second meeting of new members under Secretary Perry, to include discussion about Artificial Intelligence and Innovation.

Tentative Agenda: The meeting will start at 1:00 p.m. on October 2. The tentative meeting agenda includes: Introduction of SEAB's members, informational briefings, and an opportunity for comments from the public. The meeting will conclude at 4:00 p.m.

*Public Participa*tion: The meeting is open to the public. Individuals who would like to attend must RSVP to Kurt Heckman no later than 5:00 p.m. on Thursday, September 26, 2019, by email at: *seab@hq.doe.gov.*

Individuals and representatives of organizations who would like to offer comments and suggestions may do so during the meeting. Approximately 15 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but will not exceed five minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should register to do so via email at: *seab@hq.doe.gov,* no later than 5 p.m. on Thursday, September 26, 2019.

Those not able to attend the meeting or who have insufficient time to address the committee are invited to send a written statement to Kurt Heckman, U.S. Department of Energy, 1000 Independence Avenue SW, Washington DC 20585, or email to: *seab@hq.doe.gov.*

Minutes: The minutes of the meeting will be available on the SEAB website or by contacting Mr. Heckman. He may be reached at the above postal address or email address, or by visiting SEAB's website at *www.energy.gov/seab.*

Signed in Washington, DC, on August 30, 2019.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2019–19402 Filed 9–6–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Orders Issued Under Section 3 of the Natural Gas Act During July 2019

	FE Docket Nos.
CONOCOPHILLIPS COMPANY	19–68–NG
SOUTHERN CALIFORNIA GAS COMPANY	19–69–NG
TUSCAROWA TRADING, LLC	19–72–NG
SEMPRA LNG INTERNATIONAL, LLC	19–65–NG
TRAILSTONE ENERGY MARKETING, LLC	19–64–NG; 19–52–NG; 17–50–NG
GAZ METRO GNL, S.E.C.	19–75–LNG
OXY ENERGY CANADA, INC	19–76–NG
SEQUENT ENERGY MANAGEMENT, L.P	19–78–NG; 18–34–NG
GULF LNG LIQUEFACTION COMPANY, LLC	12–101–LNG
PACIFIC SUMMIT ENERGY LLC	19–79–NG
CITIGROUP ENERGY INC	19–84–LNG
CASTLETON COMMODITIES CANADA LP	19–81–NG
AVISTA CORPORATION	19–74–NG
CERTARUS LTD	19–77–CNG
PUBLIC UTILITY DISTRICT NO. 1 OF CLARK COUNTY	19–85–NG
JUST ENERGY ONTARIO L.P	19–89–NG
PORTLAND GENERAL ELECTRIC COMPANY	19–91–NG
WISCONSIN PUBLIC SERVICE CORPORATION	19–92–NG
CITIGROUP ENERGY CANADA, ULC	19–14–NG
EDGEMARC ENERGY OHIO, LLC	19–08–NG
EDGEMARC ENERGY PENNSYLVANIA, LLC	18–91–NG

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during July 2019, it issued orders granting authority to import and export natural gas, to import and export liquefied natural gas (LNG), to import and export compressed natural gas (CNG), and vacating authorization.

These orders are summarized in the attached appendix and may be found on the FE website at *https://www.energy.gov/fe/listing-doefe-authorizationsorders-issued-2019.*

They are also available for inspection and copying in the U.S. Department of Energy (FE–34), Division of Natural Gas Regulation, Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Signed in Washington, DC, on September 3, 2019.

Amy Sweeney,

Director, Office of Regulation, Analysis, and Engagement, Office of Oil and Natural Gas.

Appendix

DOE/FE ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS

4402	07/03/19	19–68–NG	ConocoPhillips Company	Order 4402 granting blanket authority to import/export natural gas from/to Canada/Mexico.
4403	07/03/19	19–69–NG	Southern California Gas Company.	Order 4403 granting blanket authority to import/export natural gas from/to Mexico.
4404	07/03/19	19–72–NG	Tuscarowa Trading, LLC	Order 4404 granting blanket authority to export natural gas to Mexico.

DOE/FE ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS—Continued

4405	07/03/19	19–65–NG	Sempra LNG International, LLC.	Order 4405 granting blanket authority to import/export natural gas from/to Mexico.
4406; 4384–A; 4053–A	07/03/19	19–64–NG; 19–52–NG; 17–50–NG.	Trailstone Energy Marketing, LLC.	Order 4406 granting blanket authority to import/export natural gas from/to CanadaMexico, to import LNG from Canada and Mexico by truck, to export LNG to Canada and Mexico by vessel, to import LNG from various international sources by vessel, and vacating prior authorizations, Orders 4384 and 4053.
4407	07/03/19	19–75–LNG	Gaz Metro GNL, S.E.C	Order 4407 granting blanket authority to import LNG from Canada by truck.
4408	07/03/19	19–76–NG	Oxy Energy Canada, Inc	Order 4408 granting blanket authority to import/export natural gas from/to Canada.
4409; 4169–A	07/25/19	19–78–NG; 18–34–NG	Sequent Energy Management, L.P.	Order 4409 granting blanket authority to import/export natural gas from/to Canada, and vacating prior authorization, Order 4169.
4411	07/25.19	19–79–NG	Pacific Summit Energy LLC	Order 4411 granting blanket authority to import/export natural gas from/to Canada/Mexico.
4412	07/25/19	19–84–LNG	Citigroup Energy Inc	Order 4412 granting blanket authority to import LNG from various international sources by vessel.
4413	07/25/19	19–81–NG	Castleton Commodities Canada LP.	Order 4413 granting blanket authority to import/export natural gas from/to Canada.
4414	07/25/19	19–74–NG	Avista Corporation	Order 4414 granting blanket authority to import/export natural gas from/to Canada.
4348–A	07/25/19	19–14–NG	Citigroup Energy Canada, ULC.	Order 4348–A vacating authority to import/export natural gas from/to Canada.
4344–A	07/25/19	19–08–NG	Edgemarc Energy Ohio, LLC	Order 4344–A vacating blanket authority to export natural gas to Canada.
4225–A	07/25/19	18–91–NG	Edgemarc Energy Pennsylvania, LLC.	Order 4225–A vacating blanket authority to export natural gas to Canada.
4415	07/26/19	19–77–CNG	Certarus Ltd	Order 4415 granting blanket authority to import/export CNG from/to Canada by truck.
4416	07/26/19	19–85–NG	Public Utility District No. 1 of Clark County.	Order 4416 granting blanket authority to import/export natural gas from/to Canada.
4417	07/26/19	19–89–NG	Just Energy Ontario L.P	Order 4417 granting blanket authority to import/export natural gas from/to Canada.
4418	07/26/19	19–91–NG	Portland General Electric Company.	Order 4418 granting blanket authority to import/export natural gas from/to Canada.
4419	07/26/19	19–92–NG	Wisconsin Public Service Corporation.	Order 4419 granting blanket authority to import/export natural gas from/to Canada.
4410	07/31/19	12–101–LNG	Gulf LNG Liquefaction Company, LLC.	Opinion and Order 4410 granting long-term authority to export LNG to Non-Free Trade Agreement Nations.

[FR Doc. 2019–19399 Filed 9–6–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2728–000]

Lily Solar LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Lily 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 23, 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: September 3, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19435 Filed 9–6–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2729–000]

Lily Solar Lessee, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Lily Solar Lessee, 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 23, 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: September 3, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19436 Filed 9–6–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2718–000]

527 Energy; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of 527 Energy 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 23, 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: September 3, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19433 Filed 9–6–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI19–2–000]

Dyberry Creek Farm, LLC; Notice of Declaration of Intention and Soliciting Comments, Protests, and Motions To Intervene

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI19–2–000.

c. *Date Filed:* July 31, 2019.

d. *Applicant:* Dyberry Creek Farm.

e. *Name of Project:* Dyberry Creek Farm Micro Hydro Project.

f. *Location:* The proposed Dyberry Creek Farm Micro Hydro Project would be located on an unnamed tributary of the West Branch of Dyberry Creek, near the borough of Honesdale, in Wayne County, Pennsylvania.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b) (2012).

h. *Applicant Contact:* Brian Paul Phillips, Dyberry Creek Farm, 86 Kilroe Road, Honesdale, PA, 18431; telephone: (646) 283–0570; email: *bpaulphillips@gmail.com;* Agent Contact: James F. Sanders, 417 Upper Woods Road, Honesdale, PA 18431, telephone: (570) 253–4032; email: *jimandpatsanders@gmail.com.*

i. *FERC Contact:* Any questions on this notice should be addressed to Andrea Claros, (202) 502–8171, or email: *andrea.claros@ferc.gov.*

j. *Deadline for filing comments, protests, and motions to intervene is:* 30 days from the issuance date of this notice by the Commission.

The Commission strongly encourages electronic filing. Please file comments, any comments, protests, and motions to intervene 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 DI19–2–000.

k. *Description of Project:* The proposed run-of-river project would consist of: (1) An intake on an unnamed tributary of the West Branch of Dyberry Creek with a design head of 140 feet and a hydraulic capacity of 0.701 cubic feet per second; (2) a 700-foot-long penstock; (3) a 4-foot by 4-foot powerhouse containing a 3-kilowatt generating unit; (4) a 4-inch by 10-foot-long diameter outflow pipe returning water to the creek; (5) a breaker panel at the Dyberry Farm with a grid-tie into PPL Electric Utilities transmission line; and (6) appurtenant facilities. No dams or divisions would be built.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the project would affect the interests of interstate or foreign commerce. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) would be located on a non-navigable stream over which Congress has Commerce Clause jurisdiction and would be constructed or enlarged after 1935.

l. *Locations of the Application:* This filing may 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 (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 and in the Commission's Public Reference Room located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 502–8371.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* All filings must bear in all capital letters the title COMMENTS, PROTESTS, and MOTIONS TO INTERVENE, as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any Motion to Intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: September 3, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19429 Filed 9–6–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14978–000]

Lock+™ Hydro Friends Fund XXVI, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On March 6, 2019, Lock+™ Hydro Friends Fund XXVI, 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 Prompton Dam Hydropower Project to be located at the U.S. Army Corps of Engineers' (Corps) Prompton Dam on the Lackawaxen River in Wayne 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-long, 30-foot-wide, 160-foot-high Large Frame Module; (2) two turbine-generator units with a total rated capacity of 1.0 megawatt; (3) a new 4-foot-long, 4-foot-wide, 3-foot-high pad-mounted transformer; (4) a new 200-foot-long, 13-kilovolt transmission line connecting the new transformer to an existing distribution line; and (5) appurtenant facilities. The proposed project would have an annual generation of 4,500 megawatt-hours.

Applicant Contact: Wayne Krouse, Lock+™ Hydro Friends Fund XXVI, LLC, P.O. Box 43796, Birmingham, AL 35243; phone: 877–556–6566 ext. 709.

FERC Contact: Woohee Choi; phone: (202) 502–6336.

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–14978–000.

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–14978) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: August 29, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19341 Filed 9–6–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–501–000]

Texas Eastern Transmission, LP; Notice of Application

Take notice that on August 19, 2019, Texas Eastern Transmission, LP (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP19–501–000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) requesting a certificate of public convenience and necessity for its proposed Bailey East Mine Panel 11J Project. Specifically, Texas Eastern proposes to excavate, elevate, and replace certain segments of four different natural gas transmission pipelines (Lines 10, 15, 25, and 30, and appurtenant facilities) and to monitor potential strains on the pipeline sections due to longwall mining activities planned by CONSOL Energy, Inc. in Marshall County, West Virginia. The Bailey East Mine Panel 11J Project is designed to ensure the safe and efficient operation of Texas Eastern's existing pipeline facilities at their certificated design capacities for the duration of the planned longwall mining activities beneath Texas Eastern's pipelines. Texas Eastern estimates the cost of the Bailey East Mine Panel 11J Project to be $30,536,853, all as more fully described in the application which is on file with the Commission and open to public inspection.

The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to Lisa A. Connolly, Director, Rates and Certificates, Texas Eastern Transmission, LP, P.O. Box 1642 Houston, Texas 77251–1642, by telephone at (713) 627–4102, or by email *lisa.connolly@enbridge.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 3 copies of filings made in the proceeding with the Commission and must provide a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list and will be notified of any meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

As of the February 27, 2018 date of the Commission's order in Docket No. CP16–4–001, the Commission will apply its revised practice concerning out-of-time motions to intervene in any new Natural Gas Act section 3 or section 7 proceeding.[1] Persons desiring to become a party to a certificate proceeding are to intervene in a timely manner. If seeking to intervene out-of-time, the movant is required to show good cause why the time limitation should be waived, and should provide justification by reference to factors set forth in Rule 214(d)(1) of the Commission's Rules and Regulations.[2]

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 3 copies of the protest or intervention to the Federal Energy regulatory Commission,

[1] *Tennessee Gas Pipeline Company, L.L.C.,* 162 FERC 61,167 at 50 (2018).

[2] 18 CFR 385.214(d)(1).

888 First Street NE, Washington, DC 20426.

Comment Date: 5 p.m. Eastern Time on September 24, 2019.

Dated: September 3, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19427 Filed 9–6–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2707–000]

Poseidon Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Poseidon Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 23, 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: September 3, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19430 Filed 9–6–19; 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: RP11–2473–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Report Filing: 2018 CICO Filing.
Filed Date: 8/30/19.
Accession Number: 20190830–5054.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP11–2474–000.
Applicants: Gulf Crossing Pipeline Company LLC.
Description: Report Filing: 2018 CICO Filing.
Filed Date: 8/30/19.
Accession Number: 20190830–5055.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1353–002.
Applicants: Northern Natural Gas Company
Description: Compliance filing 20190830 Rate Case Compliance to be effective 1/1/2020.
Filed Date: 8/30/19.
Accession Number: 20190830–5177.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1390–001.
Applicants: Northern Border Pipeline Company.
Description: Compliance filing Future Sales of Capacity (RP19–1390–000) Compliance Filing to be effective 8/19/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5119.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1493–000.
Applicants: Nautilus Pipeline Company, L.L.C.
Description: § 4(d) Rate Filing: Non-conforming—Unocal and Chevron Ratification Agmt to be effective 9/28/2019.
Filed Date: 8/29/19.
Accession Number: 20190829–5013.
Comments Due: 5 p.m. ET 9/10/19.

Docket Numbers: RP19–1494–000.
Applicants: Dauphin Island Gathering Partners.
Description: § 4(d) Rate Filing: Negotiated Rate Filing Chevron 8/29/2019 to be effective 9/1/2019.
Filed Date: 8/29/19.
Accession Number: 20190829–5039.
Comments Due: 5 p.m. ET 9/10/19.

Docket Numbers: RP19–1495–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: Neg Rate 2019–08–29 Elevation and Freepoint to be effective 9/1/2019.
Filed Date: 8/29/19.
Accession Number: 20190829–5040.
Comments Due: 5 p.m. ET 9/10/19.

Docket Numbers: RP19–1496–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rate—Colonial to DTE 8959073 eff 9–1–19 to be effective 9/1/2019.
Filed Date: 8/29/19.
Accession Number: 20190829–5054.
Comments Due: 5 p.m. ET 9/10/19.

Docket Numbers: RP19–1497–000.
Applicants: Texas Eastern Transmission, LP.
Description: Compliance filing 2019 Operational Entitlements Filing
Filed Date: 8/29/19.
Accession Number: 20190829–5073.
Comments Due: 5 p.m. ET 9/10/19.

Docket Numbers: RP19–1498–000.
Applicants: TransColorado Gas Transmission Company LLC.
Description: § 4(d) Rate Filing: Fuel and Lost and Unaccounted For Update Filing to be effective 10/1/2019.
Filed Date: 8/29/19.
Accession Number: 20190829–5143.
Comments Due: 5 p.m. ET 9/10/19.

Docket Numbers: RP19–1499–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (APS Sept 2019) to be effective 9/1/2019.
Filed Date: 8/29/19.
Accession Number: 20190829–5153.
Comments Due: 5 p.m. ET 9/10/19.

Docket Numbers: RP19–1500–000.

Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (Pioneer Oct—Dec 2019) to be effective 10/1/2019.
Filed Date: 8/29/19.
Accession Number: 20190829–5154.
Comments Due: 5 p.m. ET 9/10/19.

Docket Numbers: RP19–1501–000.
Applicants: Columbia Gulf Transmission, LLC.
Description: Compliance filing CGT Cashout Report 2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5006.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1502–000.
Applicants: NEXUS Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Columbia Gas 860005 Sept 1 Releases to be effective 9/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5012.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1503–000.
Applicants: MarkWest Pioneer, L.L.C.
Description: § 4(d) Rate Filing: Quarterly Fuel Adjustment Filing to be effective 10/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5045.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1504–000.
Applicants: Black Hills Gas Distribution LLC, Black Hills Northwest Wyoming Gas Utilit, Cheyenne Light, Fuel and Power Company, Black Hills Power, Inc., Black Hills Service Company, LLC.
Description: Joint Petition for Temporary Waiver of Commission Policies, Capacity Release Regulations and Policies, et al. of Black Hills Gas Distribution LLC, et al. under RP19–1504.
Filed Date: 8/29/19.
Accession Number: 20190829–5210.
Comments Due: 5 p.m. ET 9/9/19.

Docket Numbers: RP19–1505–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (Atlanta Gas 8438 to various shippers eff 9–1–2019) to be effective 9/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5051.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1506–000.
Applicants: Enable Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Filing—September 1 2019 Continental 1011192 to be effective 9/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5052.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1507–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Osaka 46429 to Spotlight 51494) to be effective 9/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5053.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1508–000.
Applicants: Dominion Energy Questar Pipeline, LLC.
Description: § 4(d) Rate Filing: Housekeeping Filing—Revised Title Page to be effective 10/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5064.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1509–000.
Applicants: Dominion Energy Overthrust Pipeline, LLC.
Description: § 4(d) Rate Filing: Housekeeping Filing—Revised Title Page to be effective 10/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5065.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1510–000.
Applicants: White River Hub, LLC.
Description: § 4(d) Rate Filing: Housekeeping Filing—Revised Title Page to be effective 10/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5070.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1511–000.
Applicants: WBI Energy Transmission, Inc.
Description: § 4(d) Rate Filing: 2019 Semi-annual Fuel & Electric Power Reimbursement Adjustment to be effective 10/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5072.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1512–000.
Applicants: Questar Southern Trails Pipeline Company.
Description: § 4(d) Rate Filing: Housekeeping Filing—Revised Title Page to be effective 10/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5073.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1513–000.
Applicants: Kern River Gas Transmission Company.
Description: § 4(d) Rate Filing: 2019 Concord September Amendment to be effective 9/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5074.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1514–000.
Applicants: UGI Mt. Bethel Pipeline, LLC.
Description: § 4(d) Rate Filing: Modification to Annual Charge Adjustment (ACA) Provision to be effective 10/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5078.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1515–000.
Applicants: Dominion Energy Cove Point LNG, LP.
Description: Compliance filing DECP—2019 Revenue Crediting Report.
Filed Date: 8/30/19.
Accession Number: 20190830–5080.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1516–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Annual LUF and Fuel True Up Filing to be effective 10/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5081.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1517–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Cherokee AGL—Replacement Shippers—Sep 2019 to be effective 9/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5082.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1518–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Non Conforming Negotiated Rate TSAs (XOG) to be effective 10/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5100.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1519–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (Aethon 37657, 50488 to Scona 51410, 51411) to be effective 9/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5113.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1520–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: Operational Purchase and Sales Report of Colorado Interstate Gas Company, L.L.C. under RP19–1520.
Filed Date: 8/30/19.
Accession Number: 20190830–5123.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1521–000.
Applicants: NEXUS Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rate—Amended CNX Gas 860004 eff 9–1–2019 to be effective 9/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5140.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1522–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (Conoco Sep 2019) to be effective 9/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5148.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1523–000.
Applicants: Panhandle Eastern Pipe Line Company, LP.
Description: § 4(d) Rate Filing: Rate Case to be effective 10/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5151.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1524–000.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: § 4(d) Rate Filing: Vol 2-Neg Non-Conforming Flex PLS-Sequent & Non Conform FTS–M-Empire to be effective 9/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5158.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1525–000.
Applicants: Dominion Energy Carolina Gas Transmission.
Description: Compliance filing DECG—2019 Penalty Crediting Sharing Report.
Filed Date: 8/30/19.
Accession Number: 20190830–5160.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1526–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Non-Conforming—FTP—Who Dat MC 547 to be effective 10/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5176.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1527–000.
Applicants: Northwest Pipeline LLC.
Description: § 4(d) Rate Filing: 2019 Winter Fuel Filing to be effective 10/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5180.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1529–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: § 4(d) Rate Filing: Neg Rate 2019–08–30 5 sharing Ks to be effective 9/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5185.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1530–000.
Applicants: Spire STL Pipeline LLC.
Description: § 4(d) Rate Filing: Spire STL Pipeline LLC Baseline Tariff Filing to be effective 11/15/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5224.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1531–000.
Applicants: Millennium Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Non-Conforming & Negotiated Rate Svc Amd—ConEd to be effective 9/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5228.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1532–000.
Applicants: MoGas Pipeline LLC.
Description: § 4(d) Rate Filing: MoGas Pipeline Annual Fuel Tracker Filing to be effective 10/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5241.
Comments Due: 5 p.m. ET 9/11/19.

Docket Numbers: RP19–1533–000.
Applicants: NEXUS Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—CNX 860004 Releases eff 9–1–2019 to be effective 9/1/2019.
Filed Date: 8/30/19.
Accession Number: 20190830–5255.
Comments Due: 5 p.m. ET 9/11/19.

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: September 3, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19426 Filed 9–6–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e) (1) (v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link.

Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202)502–8659.

Docket No.	File date	Presenter or requester
Prohibited:		
CP18–46–000	8–20–2019	Sheila McCarthy.
Exempt:		
P–14227–003	8–20–2019	California State Senate.[1]

Dated: September 3, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19437 Filed 9–6–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2716–000]

Madison BTM, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Madison BTM, 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 23, 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: September 3, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19431 Filed 9–6–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2726–000]

Invenergy Wilkinson Solar Holdings LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Invenergy Wilkinson Solar Holdings 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 23, 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.

[1] Senators Jeff Stone and Richard Roth

Dated: September 3, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19434 Filed 9–6–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14975–000]

Lock+™ Hydro Friends Fund XXII, 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 XXII, 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 Little Pine Creek Dam Hydropower Project to be located at the Pennsylvania Department of Conservation and Natural Resources' Little Pine Creek Dam on Little Pine Creek in Lycoming 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-long, 30-foot-wide, 160-foot-high Large Frame Module; (2) two turbine-generator units with a total rated capacity of 1.3 megawatts; (3) a new 4-foot-long, 4-foot-wide, 3-foot-high pad-mounted transformer; (4) a new 200-foot-long, 13-kilovolt transmission line connecting the new transformer to an existing distribution line; and (5) appurtenant facilities. The proposed project would have an annual generation of 5,800 megawatt-hours.

Applicant Contact: Wayne Krouse, Lock+™ Hydro Friends Fund XXII, LLC, P.O. Box 43796, Birmingham, AL 35243; phone: 877–556–6566 ext. 709.

FERC Contact: Woohee Choi; phone: (202) 502–6336.

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–14975–000.

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–14975) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: August 29, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19340 Filed 9–6–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2717–000]

Madison ESS, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Madison ESS, 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 23, 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: September 3, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19432 Filed 9–6–19; 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: EC19–101–000.

Applicants: Dominion Energy South Carolina, Inc.

Description: Supplement to June 13, 2019 Application for Authorization Under Section 203 of the Federal Power Act of Dominion Energy South Carolina, Inc. under EC19–101.

Filed Date: 8/29/19.

Accession Number: 20190829–5211.

Comments Due: 5 p.m. ET 9/19/19.

Docket Numbers: EC19–132–000.

Applicants: Virginia Electric and Power Company, Allegheny Generating Company.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act, et al. of Virginia Electric and Power Company, et al.

Filed Date: 8/30/19.

Accession Number: 20190830–5302.

Comments Due: 5 p.m. ET 9/20/19.

Docket Numbers: EC19–133–000.

Applicants: SR Hazlehurst III, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of SR Hazlehurst III, LLC.

Filed Date: 8/30/19.

Accession Number: 20190830–5312.

Comments Due: 5 p.m. ET 9/20/19.

Docket Numbers: EC19–134–000.

Applicants: Wilkinson Solar LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of Wilkinson Solar, LLC.

Filed Date: 8/30/19.

Accession Number: 20190830–5319.

Comments Due: 5 p.m. ET 9/20/19.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG19–177–000.

Applicants: Lily Solar LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Lily Solar LLC.

Filed Date: 8/30/19.

Accession Number: 20190830–5287.

Comments Due: 5 p.m. ET 9/20/19.

Docket Numbers: EG19–178–000.

Applicants: Lily Solar Lessee, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Lily Solar Lessee, LLC.

Filed Date: 8/30/19.

Accession Number: 20190830–5288.

Comments Due: 5 p.m. ET 9/20/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–2175–002; ER12–224–003; ER17–767–002; ER17–765–002; ER11–3188–002; ER12–225–003; ER12–2301–002; ER11–2176–001; ER17–764–002.

Applicants: SGE Energy Sourcing, LLC, Stream Energy Columbia, LLC, Stream Energy Delaware, LLC, Stream Energy Illinois, LLC, Stream Energy Maryland, LLC, Stream Energy New Jersey, LLC, Stream Energy New York, LLC, Stream Energy Pennsylvania, LLC, Stream Ohio Gas & Electric, LLC.

Description: Notification of Change in Status of the Stream MBR Sellers under ER11–2175, et al.

Filed Date: 9/3/19.

Accession Number: 20190903–5131.

Comments Due: 5 p.m. ET 9/24/19.

Docket Numbers: ER19–2380–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2019–09–03_SA 3228 IPL–ITC Midwest Substitute 1st Rev GIA (J495) to be effective 6/26/2019.

Filed Date: 9/3/19.

Accession Number: 20190903–5046.

Comments Due: 5 p.m. ET 9/24/19.

Docket Numbers: ER19–2726–000.

Applicants: Invenergy Wilkinson Solar Holdings LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 10/1/2019.

Filed Date: 8/30/19.

Accession Number: 20190830–5268.

Comments Due: 5 p.m. ET 9/20/19.

Docket Numbers: ER19–2726–001.

Applicants: Invenergy Wilkinson Solar Holdings LLC.

Description: Tariff Amendment: Supplement to Application for Market-Based Rate Authorization to be effective 10/1/2019.

Filed Date: 9/3/19.

Accession Number: 20190903–5013.

Comments Due: 5 p.m. ET 9/24/19.

Docket Numbers: ER19–2727–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2019–08–30 Commitment Costs and Default Energy Bid Enhancements to be effective 12/31/2019.

Filed Date: 8/30/19.

Accession Number: 20190830–5276.

Comments Due: 5 p.m. ET 9/20/19.

Docket Numbers: ER19–2728–000.

Applicants: Lily Solar LLC.

Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 10/30/2019.

Filed Date: 9/3/19.

Accession Number: 20190903–5000.

Comments Due: 5 p.m. ET 9/24/19.

Docket Numbers: ER19–2729–000.

Applicants: Lily Solar Lessee, LLC.

Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 10/30/2019.

Filed Date: 9/3/19.

Accession Number: 20190903–5002.

Comments Due: 5 p.m. ET 9/24/19.

Docket Numbers: ER19–2730–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3596 Tenaska Clear Creek Wind Facilities Construction Agr to be effective 8/30/2019.

Filed Date: 9/3/19.

Accession Number: 20190903–5069.

Comments Due: 5 p.m. ET 9/24/19.

Docket Numbers: ER19–2731–000.

Applicants: Avista Corporation.

Description: Avista Corporation submits Average System Cost Filing for Sales of Electric Power to the Bonneville Power Administration, FY 2020–2021.

Filed Date: 8/30/19.

Accession Number: 20190830–5301.

Comments Due: 5 p.m. ET 9/20/19.

Docket Numbers: ER19–2732–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA SA No. 5460; Queue No. AE2–304 to be effective 8/5/2019.

Filed Date: 9/3/19.

Accession Number: 20190903–5085.

Comments Due: 5 p.m. ET 9/24/19.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES19–49–000.

Applicants: AEP Texas Inc.

Description: Application under Section 204 of the Federal Power Act for Authorization to Issue Securities of AEP Texas Inc.

Filed Date: 9/3/19.

Accession Number: 20190903–5120.

Comments Due: 5 p.m. ET 9/24/19.

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: September 3, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19425 Filed 9–6–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14616–001]

Oregon State University; Notice of Application and Applicant-Prepared EA Accepted for Filing, Soliciting Motions To Intervene and Protests, and Soliciting Comments, and Final Recommendations, and Final Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application and applicant-prepared environmental assessment has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original License for Major Unconstructed Project.

b. *Project No.:* 14616–001.

c. *Date filed:* May 31, 2019, and amended on August 28, 2019.

d. *Applicant:* Oregon State University.

e. *Name of Project:* PacWave South Project.

f. *Location:* On the Pacific Ocean 6 nautical miles off the central Oregon coast near the city of Newport, in Lincoln County, Oregon. The project occupies 1,695 acres of United States submerged lands on the Outer Continental Shelf administered by the Bureau of Ocean Energy Management.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Cherise Gaffney, Stoel Rives LLP, 600 University St, Suite 3600, Seattle, WA 98101; (206) 386–7622; or email at *cherise.gaffney@stoel.com.*

i. *FERC Contact:* Jim Hastreiter at (503) 552–2760; or email at *james.hastreiter@ferc.gov.*

j. *Deadline for filing motions to intervene and protests, comments, and final terms and conditions, recommendations, and prescriptions:* 30 days from the issuance date of this notice; reply comments are due 45 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests, comments, and final terms and conditions, recommendations, and prescriptions 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–14616–001.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing.

l. The proposed PacWave South Project would consist of: (1) Four offshore test berths; (2) a maximum of 20 wave energy conversion (WEC) devices with a maximum total installed capacity of 20 megawatts; (3) various WEC devices including point absorbers, oscillating water column, overtopping, attenuator, and ''other'' types that utilize a combination of technology designs; (4) various anchoring systems including gravity based anchors, drag anchors, and embedment anchors, consisting of steel, concrete, or a mixture of steel and concrete; (5) single- or three-point mooring systems consisting of chain, steel cables, or synthetic materials; (6) mooring infrastructure including surface buoys, subsurface floats, and chain, wire or rope, as catenary, tendon or bridle lines; (7) subsea connectors; (8) five buried 8.3-mile-long subsea transmission cables converging in a nearshore conduit; (9) up to five onshore 10-foot by 10-foot by 10-foot cable splice vaults (beach manholes), where the subsea cables would transition to terrestrial cables; (10) five buried 0.5-mile-long subterranean transmission cables connecting to a power monitoring and conditioning facility; (11) grid-interconnection at Central Lincoln Public Utility District substation; and (12) appurtenant facilities.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at FERCOnlineSupport. A copy is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified intervention deadline date, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified intervention deadline date. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant(s) named in this public notice.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title PROTEST, MOTION TO INTERVENE, NOTICE OF INTENT TO FILE COMPETING APPLICATION, COMPETING APPLICATION, COMMENTS, REPLY COMMENTS, RECOMMENDATIONS, TERMS AND CONDITIONS, or PRESCRIPTIONS; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or

motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

o. A license applicant must file no later than 60 days following the date of issuance of this notice: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

p. *Procedural schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Commission issues EA: November 2019.

Dated: August 29, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19342 Filed 9–6–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14976–000]

Lock+™ Hydro Friends Fund XXIII, 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 XXIII, 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 George B. Stevenson Dam Hydropower Project to be located at the Pennsylvania Department of Conservation and Natural Resources' George B. Stevenson Dam on Sinnemahoning Creek in Cameron 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-long, 30-foot-wide, 160-foot-high Large Frame Module; (2) two turbine-generator units with a total rated capacity of 1.1 megawatts; (3) a new 4-foot-long, 4-foot-wide, 3-foot-high pad-mounted transformer; (4) a new 200-foot-long, 13-kilovolt transmission line connecting the new transformer to an existing distribution line; and (5) appurtenant facilities. The proposed project would have an annual generation of 5,000 megawatt-hours.

Applicant Contact: Wayne Krouse, Lock+™ Hydro Friends Fund XXIII, LLC, P.O. Box 43796, Birmingham, AL 35243; phone: 877–556–6566 ext. 709.

FERC Contact: Woohee Choi; phone: (202) 502–6336.

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–14976–000.

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–14976) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: August 29, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19343 Filed 9–6–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP19–502–000; PF17–8–000]

Commonwealth LNG, LLC; Notice of Application

Take notice that on August 20, 2019, Commonwealth LNG, LLC (Commonwealth), at One Riverway, Suite 500, Houston, Texas 77056, filed an application in the above reference docket an application pursuant to section 3 of the Natural Gas Act (NGA) to construct and operate a natural gas liquefaction and export facility and an associated NGA section 3 pipeline in Cameron Parish, Louisiana, referred as the Commonwealth LNG Project, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TYY, (202) 502–8659.

Commission staff has determined that this project qualifies as a Major Infrastructure Project pursuant to the Memorandum of Understanding Implementing One Federal Decision under Executive Order 13807 signed on April 10, 2018. Major Infrastructure Projects are defined as projects for which multiple authorizations by Federal agencies will be required and the lead Federal agency has determined that it will prepare an Environmental Impact Statement under the National Environmental Policy Act.[1]

Any questions concerning this application may be directed to Robert Powers, Commonwealth LNG, LLC, One Riverway, Suite 500, Houston, Texas 77056, by telephone at (346) 352–4444 or by email at *RPowers@teamcpl.com.*

On August 15, 2017, Commission staff granted the applicant's request to utilize the Pre-Filing Process and assigned Docket No. PF17–8–000 to staff activities involving the project. Now, as of the filing of this application on August 20, 2019, the Pre-Filing Process for this project has ended. From this

[1] 42 U.S.C. (United States Code) 4321 *et seq.* For more information on One Federal Decision, visit our website at *https://www.ferc.gov/industries/gas/gen-info/one-federal.asp.*

time forward, this proceeding will be conducted in Docket No. CP19–502–000, as noted in the caption of this Notice.

Specifically, the Commonwealth LNG Project would be located on the west side of the Calcasieu Ship Channel near its entrance to the Gulf of Mexico in Cameron Parish, Louisiana and it will consist of one liquefied natural gas (LNG) plant that will include six liquefaction trains with a peak capacity of 9.5 MTPA of LNG; six full-containment LNG storage tanks with a capacity of 240,000 cubic meters of LNG storage; one marine loading berth; and a 3.04 miles of 30-inch-diameter natural gas pipeline that will connect the LNG facility with the existing interstate and intrastate pipeline systems of Kinetica Partners, LLC and EnLink Bridgeline Holdings, LP for the purpose of supplying feed gas to the project.

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, and will be notified of any meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: 5 p.m. Eastern Time, September 24, 2019.

Dated: September 3, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19428 Filed 9–6–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2019–0356; FRL–9998–06]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection Activity; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: ''School Integrated Pest Management Awards'' and identified by EPA ICR No. 2531.02 and OMB Control No. 2070–0200, represents the renewal of an existing ICR that is scheduled to expire on May 31, 2020. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before November 8, 2019.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2019–0356 by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Carolyn Siu, FEAD (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: Insert (703) 347–

0159; email address: *siu.carolyn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

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 estimates 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.
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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: School Integrated Pest Management Awards Program

ICR number: EPA ICR No. 2531.02.

OMB control number: OMB Control No. 2070–0200.

ICR status: This ICR is currently scheduled to expire on May 31, 2020. 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 EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable.

Abstract: This ICR covers the paperwork activities associated with EPA's program to encourage the use of Integrated Pest Management (IPM) as the preferred approach to pest control in the nation's schools. IPM is a smart, sensible, and sustainable approach to pest control that emphasizes the remediation of pest conducive conditions. IPM combines a variety of pest management practices to provide effective, economical pest control with the least possible hazard to people, property, and the environment. These practices involve exclusion of pests, maintenance of sanitation, and the judicious use of pesticides.

The Agency intends to use the information collected through this ICR to encourage school districts to implement IPM programs and to recognize those that have attained a notable level of success. Since IPM implementation occurs along a continuum, the School IPM (SIPM) incentive program will recognize each milestone step a school district takes to begin, grow, and sustain an IPM program. This program has five award categories—Great Start, Leadership, Excellence, Sustained Excellence, and Connector. The first four categories are stepwise levels that are reflective of the effort, experience, and, ultimately, success that results from implementing EPA-recommended IPM tactics that protect human health and the environment.

EPA's vision is that all students in the U.S. will experience the benefits provided by an IPM program in their school district. The Agency's IPM implementation efforts are based on a wholesale approach aimed at kindergarten through 12th grade public and Tribal schools. Schools with pest infestations are not only exposed to potential harm to health and property, but also to stigmatization. The School IPM recognition program will give districts across the nation the opportunity to receive positive reinforcement through public recognition of their efforts in implementing pest prevention and management strategies.

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 16.5 hours per response. Burden is defined in 5 CFR 1320.3(b).

Respondents/Affected Entities: Entities potentially affected by this ICR are school districts or entities that represent them. Entities potentially affected by this ICR are represented by the following North American Industry Classification System (NACIS) Codes: 6111—Elementary and Secondary Schools, 6244—Child Day Care Services, 56172—Janitorial Services, 56173—Landscaping Services, 56171—Exterminating and Pest Control Services, and 5617—Services to Buildings and Dwellings.

Obligation to respond: Voluntary.

Estimated total number of potential respondents: 53.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: One per application.

Estimated total annual burden hours: 875 hours.

Estimated total annual costs: $81,000. There are no capital investment or maintenance and operational costs.

III. Are there changes in the estimates from the last approval?

EPA does not expect any changes in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. However, there is an increase in the estimated burden costs for both the Agency and the respondents. This increase reflects increases in the wage rates since the creation of the ICR. We note that in the creation of the ICR, the benefits (46.3 percent of the unloaded wage) was mistakenly excluded from the calculation of the fully loaded wages for the Agency, resulting in the latter being much lower than the actual values. Correcting this in the renewal results in an increase for the Agency's estimated burden costs that is disproportionately larger than the estimated burden cost increase for the respondents. This change is an adjustment.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: September 3, 2019.

Alexandra Dapolito Dunn,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2019–19401 Filed 9–6–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0433; FRL 9998–18]

Pesticides; Interim Process for Evaluating Potential Synergistic Effects of Pesticides During the Registration Process; Notice of Availability and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing the availability of and soliciting public comment on an interim process it developed to address risk estimate uncertainties associated with U.S. patent assertions of greater than additive effects (GTA effects) in mixtures of pesticide active ingredients for controlling pests (often referred to as ''synergy''). EPA developed a process to document, review and, if necessary, revise ecological risk estimates; and invites public comment on this process to obtain and analyze GTA effects data identified in patent assertions.

DATES: Comments must be received on or before October 24, 2019.

ADDRESSES: Submit your comments, identified by docket identification (ID) number, EPA–HQ–OPP–2017–0433, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on comments or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Edward Odenkirchen, Environmental Fate and Ecological Effects Division (7507P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 305–6449; email address: *odenkirchen.edward@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, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides and/or the potential impacts of pesticide use on listed species and designated critical habitat. Given the broad interest, the Agency has not attempted to identify or describe all the specific entities that may be affected by this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Background

EPA regulates pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.,* which governs the production, use, distribution, and sale of pesticides. Under FIFRA, pesticides distributed or sold in the United States must first be registered with EPA unless they qualify for an exemption. A cornerstone of the pesticide registration process is the data requirements that applicants must fulfill regarding the pesticide's effects on human health, the environment, and in some cases, its efficacy in controlling pests.

The burden of demonstrating that a product meets the standards for registration rests on the registrant or applicant for registration. To obtain registration, applicants are responsible for citing or generating all data necessary to meet data requirements specified by EPA's regulations at 40 CFR part 158. An ecological risk assessment is one key assessment EPA performs to determine what risks are posed by a pesticide and whether changes to the use or proposed use are necessary to protect the environment. To inform such assessments, EPA requires a range of data in specific categories including: Product chemistry, environmental and mammalian toxicity, environmental fate, residue chemistry, reentry exposure, and spray drift.

EPA's historical process for evaluating pesticide ecological risks has relied on toxicity information from studies conducted with single active ingredients based on the lack of information on pesticide interactions and the expectation that they are rare. In 2013, the National Research Council (NRC) (Ref. 1) stated that toxicological interactions between pesticide active ingredients that produce GTA effects are rare and suggested that the Agency consider pesticide active ingredient interactions when the best available scientific evidence supports the evaluation.

However, in a lawsuit challenging EPA's 2014 decision to register a new pesticide product containing two herbicide active ingredients (Enlist Duo Herbicide) (Ref. 2), the plaintiffs presented evidence—previously unknown to EPA—that the U.S. Patent and Trademark Office (USPTO) had granted a patent for claims that Enlist Duo produced GTA effects towards pest species. EPA subsequently discovered that a number of other registrants were making similar claims of GTA effects towards pest species before the USPTO, but were not disclosing these GTA claims to EPA. Based on the new information regarding the potential synergistic effects on non-target organisms when the two pesticide active ingredients of Enlist Duo Herbicide are applied together, EPA asked the court to remand the Enlist Duo Herbicide registration decision to EPA for consideration of its potential for synergistic effects (Ref. 3). Subsequently, in 2016, and 2017, EPA received petitions asking it to require registrants to provide information on potential synergy for consideration in EPA's ecological risk assessments. In addition, subsequent public comments submitted regarding pesticide regulatory

decisions continue to include this issue as a concern.

III. Interim Process

The criteria for use of GTA data for patent applications are different than for EPA's quantitative analyses of risk. While the USPTO patent evaluation process uses a standard that the issued assertion must be novel and ''non-obvious'' (*https://www.uspto.gov/web/offices/pac/mpep/mpep-2100.pdf*), for EPA's quantitative risk assessments, the data must meet the same standards for use of other toxicological data. To address risk estimate uncertainties associated with patent assertions of GTA effects, EPA has developed an interim process to obtain, analyze, and document patent claims of GTA effects in mixtures of pesticide active ingredients. The purpose of the interim process is to evaluate the utility of collecting and reviewing GTA patent information for use in conducting risk assessments, and to determine if such data, where applicable, affect risk assessments. This process is described in a document titled ''Process for Receiving and Evaluating Data Supporting Assertions of Greater than Additive (GTA) Effects in Mixtures of Pesticide Active Ingredients and Associated Guidance for Registrants'' (Ref. 4) and summarized in this unit. The document is available on the Agency's website: *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/ecological-risk-assessment-pesticides-technical* and in the docket.

Generally, for new chemicals (specifically new conventional pesticide active ingredients) and other new products or other active ingredients for which EPA has specific concerns about the potential for GTA effects, as part of the registration process, EPA will request registrants to provide GTA effect information on approved patents and conduct appropriate statistical analysis of that information using the following steps:

Step 1: Search for and identify granted U.S. patents with applications that made any claims of GTA effects;

Step 2: Conduct a review of patent data for relevance to ecological risk assessment;

Steps 3, Report effects testing data from relevant patents; and

Step 4: Perform a statistical analysis using an EPA-establish method to evaluate if observations of GTA effects are statistically significant.

Step 5 is an Agency review of the submitted information from Steps *1–4*.

Consistent with EPA's review of any scientific data submitted for inclusion in the regulatory process, EPA will review submitted patent searches and relevancy reporting in submissions to ensure that the process is consistent with the Agency interpretation of patent reporting and relevancy review.

EPA has generally been applying this interim process since 2016. EPA's experience with the application of this interim process to date suggests that patent submissions with relevant information that demonstrate a sufficiently large, statistically significant GTA interaction requiring quantitative consideration in ecological risk assessments will likely be rare. More specifically, for the 24 new active ingredient registrations that submitted patent data to date, three contained pertinent information that indicated a need for further testing and none ultimately led to adjustment in the risk assessment. EPA plans to re-evaluate this interim process considering public comment and after it has collected and analyzed more GTA patent information submitted during registrations. Ultimately, EPA plans to look at the results of this process to inform its determination as to whether patent data has utility in EPA's risk assessments. If the interim process demonstrates it does, then EPA plans to continue to request or require registrants provide patent data and follow this process (or an improved process reflecting comments and/or lessons learned). If the process demonstrates that the patent data does not have utility in EPA's risk assessments, EPA plans to communicate that to the public and discontinue this process.

IV. Public Comments Sought

EPA is seeking comment on the interim process for assessing potential GTA effects of pesticides during the registration process. Specifically, EPA solicits comments on the following:

- Are there technical aspects of the interim process that warrant change? If so, what changes are recommended?
- What aspects of the process could be applied to the evaluation of open literature sources of GTA effects pesticide interactions?
- Should EPA consider standardizing a more detailed search and reporting approach, and how should EPA do that?
- Should EPA continue the evaluation process as described in this document? If so, what performance metrics (*e.g.,* number of evaluations) should EPA consider before deciding the utility of this approach?
- What applicant burden is associated with the activities described in this memorandum, including compiling, analyzing, and submitting the information? Specifically, does an estimate of 80—240 hours of burden per applicant cover the respondent burden associated with the interim process?

V. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

1. National Research Council (NRC) 2013. Assessing Risks to Endangered and Threatened Species from Pesticides. The National Academies Press, Washington DC.
2. Case Nos. 14–73353, 14–73359, 15–71207, 15–71213 United States Court of Appeals for the Ninth Circuit ID: 9731620, DktEntry: 56–1, Page 1 of 215.
3. Case Nos. 14–73353, 14–73359, 15–71207, 15–71213 United States Court of Appeals for the Ninth Circuit ID: 9770038, DktEntry: 121–1, Page 1 of 12.
4. U.S EPA. Process for Receiving and Evaluation Data Supporting Assertion of Greater than Additive (GTA) Effects in Mixtures of Pesticide Active Ingredients and Associated Guidance for Registrants, August 2019. It is available at *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/ecological-risk-assessment-pesticides-technical.*

Authority: 7 U.S.C. 136 *et seq.*

Dated: September 3, 2019.

Alexandra Dapolito Dunn,

Assistant Administrator.

[FR Doc. 2019–19324 Filed 9–6–19; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Document Number: 2019–6019]

Review of Proposed Guidelines for Assessing Additionality Related to Providing EXIM's Support for Medium and Long Term Export Transactions

The Export-Import Bank of the United States (EXIM) is seeking comments on proposed guidelines for determining Additionality on requests the Bank receives to support export transactions with repayment amortizing over the medium or long term. The proposed guidelines can be viewed at: *https://www.exim.gov/Additionality.guidance.* Interested parties may submit comments to *additionality.review@exim.gov* or by mail to 811 Vermont Avenue NW, Room

1257, within 30 days of the date this notice appears in the **Federal Register**.

James C. Cruse,

Senior Vice President, Office of Policy and International Relations.

[FR Doc. 2019–19345 Filed 9–6–19; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

[Document Number: 2019–6018]

Review of Economic Impact Procedures and Methodology.

The Export-Import Bank of the United States (EXIM) is in the process of reviewing its economic impact procedures and methodology and invites public comment. EXIM's current Economic Impact procedures can be accessed at: *https://www.exim.gov/sites/default/files//newsreleases/Final-April-2013-Procedures.pdf*.

Interested parties may submit comments to *economic.impact@exim.gov* or by mail to 811 Vermont Avenue NW, Room 1257, within 30 days of the date this notice appears in the **Federal Register**.

James C. Cruse,

Senior Vice President, Office of Policy and International Relations.

[FR Doc. 2019–19344 Filed 9–6–19; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0953]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

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 Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (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 comments should be submitted on or before October 9, 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 contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), 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.

OMB Control No.: 3060–0953.

Title: Section 95.2309, Frequency Coordination/Coordinator, Wireless Medical Telemetry Service.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit and Not-for-profit institutions.

Number of Respondents and Responses: 3,000 respondents; 3,000 responses.

Estimated Time per Response: 2–5 hours.

Frequency of Response: On occasion reporting requirement, third party disclosure requirement and recordkeeping requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority is contained in 47 U.S.C. 154, 303, 307.

Total Annual Burden: 15,000 hours.

Total Annual Cost: $750,000.

Privacy Act Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: No information is requested that would require assurance of confidentiality.

Needs and Uses: The Commission will submit this information collection to OMB as a revision after this 60-day comment period to obtain the full three-year clearance from them.

On May 19, 2017, the Federal Communications Commission released a Report and Order, *Review of the Commission's Part 95 Personal Radio Services Rules,* WT Docket No. 10–119, FCC 17–57, which reorganized and updated the Commission's Part 95 rules, including those for the wireless medical telemetry service (WMTS). The Commission merged the requirements of former Sections 95.1111 and 95.1113 into a new Section 95.2309, but did not impose any new requirements that would be subject to this collection of information.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–19406 Filed 9–6–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0809]

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 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 8, 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 Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0809.

Title: Communications Assistance for Law Enforcement Act (CALEA).

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: 200 respondents; 285 responses.

Estimated Time per Response: 12 hours average (range of 7.5 to 80 hours).

Frequency of Response: On occasion reporting requirements, recordkeeping and third-party disclosure requirements.

Obligation to Respond: Mandatory and Voluntary. Statutory authority is contained in sections 105, 107(c), 109(b) and 301 of the Communications Assistance for Law Enforcement Act (CALEA), 47 U.S.C. 1004, 1006(c), 1008(b), and 229; Public Law 103–414, 108 Stat. 4279 (1994).

Total Annual Burden: 3,475 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: CALEA records submitted pursuant to this information collection are not made available routinely for public inspection.

Needs and Uses: The Communications Assistance for Law Enforcement Act (CALEA) requires the Commission to create rules that regulate the conduct and recordkeeping of lawful electronic surveillance. CALEA was enacted in October 1994 to respond to rapid advances in telecommunications technology and eliminates obstacles faced by law enforcement personnel in conducting electronic surveillance. Section 105 of CALEA requires telecommunications carriers to protect against the unlawful interception of communications passing through their systems. Law enforcement officials use the information maintained by telecommunications carriers to determine the accountability and accuracy of telecommunications carriers' compliance with lawful electronic surveillance orders.

On May 12, 2006, the Commission released a *Second Report and Order and Memorandum Opinion and Order* in ET Docket No. 04–195, FCC 06–56, which became effective August 4, 2006, except for §§ 1.20004 and 1.2005 of the Commission's rules, which became effective on February 12, 2007. The Second Report and Order established new guidelines for filing section 107(c) petitions, section 109(b) petitions, and monitoring reports (FCC Form 445). CALEA section 107(c)(1) permits a petitioner to apply for an extension of time, up to two years from the date that the petition is filed, and to come into compliance with a particular CALEA section 103 capability requirement. CALEA section 109(b) permits a telecommunication carrier covered by CALEA to file a petition with the FCC and an application with the Department of Justice (DOJ) to request that DOJ pay the costs of the carrier's CALEA compliance (cost-shifting relief) with respect to any equipment, facility or service installed or deployed after January 1, 1995. The Second Report and Order required several different collections of information:

(a) Within 90 days of the effective date of the Second Report and Order, facilities based broadband internet access and interconnected Voice over Interconnected Protocol (VOIP) providers newly identified in the First Report and Order in this proceeding were required to file system security statements under the Commission's rules. (Security systems are currently approved under the existing OMB Control No. 3060–0809 information collection).

(b) All telecommunications carriers, including broadband internet access and interconnected VoIP providers, must file updates to their systems security statements on file with the Commission as their information changes.

(c) Petitions filed under Section 107(c), request for additional time to comply with CALEA; these provisions apply to all carriers subject to CALEA and are voluntary filings.

(d) Section 109(b), request for reimbursement of CALEA; these provisions apply to all carriers subject to CALEA and are voluntary filings.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–19404 Filed 9–6–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1053]

Information Collections 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 of 1995 (PRA), 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 Office of Management and Budget (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 comments shall be submitted on or before November 8, 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 contacts 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: 3060–1053.

Title: Misuse of internet Protocol Captioned Telephone Service (IP CTS); Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket Nos. 13–24 and 03–123.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 372,010 respondents; 1,218,242 responses.

Estimated Time per Response: 0.1 hours (6 minutes) to 40 hours.

Frequency of Response: Annual, every five years, monthly, and ongoing reporting requirements; Recordkeeping requirements; Third party disclosure requirements.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for the information collection requirements is found at Sec. 225 [47 U.S.C. 225] Telecommunications Services for Hearing-Impaired Individuals; The Americans with Disabilities Act of 1990, (ADA), Public Law 101–336, 104 Stat. 327, 366–69, enacted on July 26, 1990.

Total Annual Burden: 653,820 hours.

Total Annual Cost: $86,000.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's updated system of records notice (SORN), FCC/CGB–4, ''Internet-based Telecommunications Relay Service-User Registration Database (ITRS–URD).'' As required by the Privacy Act, 5 U.S.C. 552a, the Commission also published a SORN, FCC/CGB–4 ''Internet-based Telecommunications Relay Service-User Registration Database (ITRS–URD),'' in the **Federal Register** on February 9, 2015 (80 FR 6963) which became effective on March 23, 2015.

Privacy Impact Assessment: The FCC completed a Privacy Impact Assessment (PIA) on June 28, 2007. It may be reviewed at *https://www.fcc.gov/general/privacy-act-information#pia.* The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

Needs and Uses: On August 1, 2003, the Commission released *Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CC Docket No. 98–67, Declaratory Ruling, 68 FR 55898, September 28, 2003, clarifying that one-line captioned telephone voice carry over (VCO) service is a type of telecommunications relay service (TRS) and that eligible providers of such services are eligible to recover their costs from the Interstate TRS Fund (Fund) in accordance with section 225 of the Communications Act.

On July 19, 2005, the Commission released *Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CC Docket No. 98–67 and CG Docket No. 03–123, Order, 70 FR 54294, September 14, 2005, clarifying that two-line captioned telephone VCO service, like one-line captioned telephone VCO service, is a type of TRS eligible for compensation from the Fund.

On January 11, 2007, the Commission released *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CG Docket No. 03–123, Declaratory Ruling, 72 FR 6960, February 14, 2007, granting a request for clarification that internet Protocol (IP) captioned telephone relay service (IP CTS) is a type of TRS eligible for compensation from the Fund.

On August 26, 2013, the Commission issued *Misuse of Internet Protocol Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CG Docket Nos. 13–24 and 03–123, Report and Order, 78 FR 53684, August 30, 2013, to regulate practices relating to the marketing of IP CTS, impose certain requirements for the provision of this service, and mandate registration and certification of IP CTS users.

On June 8, 2018, the Commission issued *Misuse of Internet Protocol Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CG Docket Nos. 13–24 and 03–123, Report and Order and Declaratory Ruling, 83 FR 30082, June 27, 2018 (*2018 IP CTS Modernization Order*), to facilitate the Commission's efforts to reduce waste, fraud, and abuse and improve its ability to efficiently manage the IP CTS program through regulating practices related to the marketing of IP CTS, generally prohibiting the provision of IP CTS to consumers who do not genuinely need the service, permitting the provision of IP CTS in emergency shelters, and approving the use of automatic speech recognition to generate captions without the assistance of a communications assistant.

On February 15, 2019, the Commission issued *Misuse of Internet Protocol Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CG Docket Nos. 13–24 and 03–123, Report and Order, and Order, 84 FR 8457, March 8, 2019 (*2019 IP CTS Program Management Order*), requiring the submission of IP CTS user registration information to the telecommunications relay service (TRS)

User Registration Database (Database) so that the Database administrator can verify IP CTS users to reduce the risk of waste, fraud, and abuse in the IP CTS program.

This notice and request for comments pertains to the programmatic changes in information collection burdens due to the *2018 IP CTS Modernization Order* and the *2019 IP CTS Program Management Order,* the extension of the currently approved information collection requirements for one-line and two-line CTS and IP CTS rules, and the update to the estimates of existing burdens that were included in the February 2018 PRA submission to OMB.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–19403 Filed 9–6–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0398]

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 of 1995 (PRA), 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 Office of Management and Budget (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 8, 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 Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0398.

Title: Sections 15.117(g)(2), 15.201(a), 15.201(d), 15.211, 15.213 and 15.221(c))—Equipment Authorization Measurement Standards.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 250 respondents; 250 responses.

Estimated Time per Response: 15.4 hours (average).

Frequency of Response: On occasion, and one-time reporting requirements, recordkeeping requirement and third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 4(i), 302, 303(c), 303(f), 303(g) and 303(r), and 309(a).

Total Annual Burden: 3,850 hours.

Total Annual Cost: $50,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is a minimal exemption from the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(4) and 47 CFR 0.459(d) of the Commission's rules that is granted for trade secrets, which may be submitted to the Commission as part of the documentation of the test results. No other assurances of confidentiality are provided to respondents.

Needs and Uses: The Commission will submit this information collection after this 60 day comment period to obtain the full three year clearance from the Office of Management and Budget (OMB). There is a change in the Commission's estimated respondents/responses and/or total annual burden hours.

To ensure that technical standards are applied uniformly, the Commission requires respondents to follow appropriate equipment authorization procedures specified in subpart J of part 2 of the Commission's rules. These requirements require manufacturers to comply with certain information collection requirements common to all equipment.[1] In addition to these general requirements, the responsible parties for certain types of equipment must maintain special records as specified by the requirements for those devices.

(a) 47 CFR 15.117(g)(2) of the Commission's rules requires that the responsible party (usually the manufacturer) for equipment insert in its files a statement explaining the basis on which the manufacturer relies to ensure that at least 97.5% of all production units of the test sample that are manufactured have a noise figure of no greater than 14 dB.

(b) 47 CFR 15.201(a) requires that devices operated under the provisions of 47 CFR 15.211, 15.213 and 15.221 of the Commission's rules comply with certain additional requirements.

(c) The Commission's rules permit the operation of field disturbance sensors in the low VHF region of the spectrum, subject to requirements in 47 CFR 15.201(d).

(1) Such systems have the potential for interfering with television broadcasting and other radio communication signals.

(2) The Commission requires a unique procedure for on-site testing and compliance verification of these systems to ensure that suitable safeguards are in place for the operation of these devices in the VHF range of the spectrum.

The Commission is seeking the Office of Management and Budget (OMB) approval to revise the information collection requirements contained in OMB Control No. 3060–0387 and consolidate them into this collection. After OMB approval is received, the FCC will discontinue OMB Control No. 3060–0387 and have it removed from OMB's Active Inventory.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–19405 Filed 9–6–19; 8:45 am]

BILLING CODE 6712–01–P

[1] See OMB Information Collection 3060–0057, 3060–0329 and 3060–0636.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

TIME AND DATE: 10:00 a.m., Wednesday, September 18, 2019.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW, Washington, DC 20004 (enter from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument in the matter *Thomas* v. *CalPortland Co.,* Docket No. WEST 2018–402–DM. (Issues include whether the Judge erred in concluding that the operator discriminated against the miner because of his safety complaints.)

Any person attending this oral argument who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

PHONE NUMBER FOR LISTENING TO MEETING: 1–(866) 867–4769; Passcode: 678–100.

Authority: 5 U.S.C. 552b.

Dated: September 5, 2019.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2019–19555 Filed 9–5–19; 4:15 pm]

BILLING CODE 6735–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

TIME AND DATE: 10:00 a.m., Thursday, September 19, 2019.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW, Washington, DC 20004 (enter from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Thomas* v. *CalPortland Co.,* Docket No. WEST 2018–402–DM. (Issues include whether the Judge erred in concluding that the operator discriminated against the miner because of his safety complaints.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

PHONE NUMBER FOR LISTENING TO MEETING: 1–(866) 867–4769; Passcode: 678–100.

Authority: 5 U.S.C. 552b.

Dated: September 5, 2019.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2019–19570 Filed 9–5–19; 4:15 pm]

BILLING CODE 6735–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company; Correction

This notice corrects a notice (FR Doc. 2019–19057) published on page 46525 in the first column of the issue for Wednesday, September 4, 2019.

Under *A. Federal Reserve Bank of Dallas*, entry 2 is corrected to read as follows:

2. *Edwin M. Payne, Weslaco, Texas;* to retain voting shares of Greater State Bancshares Corp., and thereby indirectly retain shares of Greater State Bank, both of McAllen, Texas.

Comments on this application must be received by September 20, 2019.

Board of Governors of the Federal Reserve System, September 4, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–19390 Filed 9–6–19; 8:45 am]

BILLING CODE 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 24, 2019.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Kathryn M. Fattig, Chelsea, Iowa, individually and as a member of the Erusha Family Control Group;* to retain voting shares of Chebelle Corporation and thereby indirectly retain shares of Chelsea Savings Bank, both of Belle Plaine, Iowa.

In addition, D. Neil Erusha and Patricia M. Erusha, both of Solon, Iowa, to join the Erusha Family Control Group and to retain voting shares of Chebelle Corporation.

Board of Governors of the Federal Reserve System, September 4, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–19391 Filed 9–6–19; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

[File No. 182 3196]

Thru, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 9, 2019.

ADDRESSES: Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''Thru, Inc.; File No. 182 3196'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade

Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Robin Wetherill (202–326–2220), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 3, 2019), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before October 9, 2019. Write ''Thru, Inc.; File No. 182 3196'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''Thru, Inc.; File No. 182 3196'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 9, 2019. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a consent order from Thru, Inc. (''Thru'' or ''Respondent'').

The proposed consent order (''proposed order'') has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter concerns alleged false or misleading representations that Thru made concerning its participation in the Privacy Shield frameworks agreed upon by the U.S. and, respectively, the European Union (''EU'') and the Swiss Federation. The Privacy Shield frameworks allow U.S. companies to receive personal data transferred from the EU and Switzerland without violating EU or Swiss law. The frameworks consist of a set of principles and related requirements that have been deemed by the European Commission and the Swiss authorities as providing ''adequate'' privacy protection. The principles include notice; choice; accountability for onward transfer; security; data integrity and purpose limitation; access; and recourse, enforcement, and liability. The related requirements include, for example, securing an independent recourse mechanism to handle any disputes about how the company handles information about EU citizens.

To participate in the frameworks, a company must comply with the Privacy Shield principles and self-certify that compliance to the U.S. Department of Commerce (''Commerce''). Commerce reviews companies' self-certification applications and maintains a public website, *https://www.privacyshield.gov/list,* where it posts the names of companies who have completed the requirements for certification. Companies are required to recertify every year in order to continue benefitting from Privacy Shield.

Thru provides provides cloud-based file transfer software. According to the Commission's complaint, Thru published on its website, *http://www.thruinc.com,* a privacy policy containing statements related to its participation in Privacy Shield.

The Commission's proposed one-count complaint alleges that Respondent violated Section 5(a) of the Federal Trade Commission Act. Specifically, the proposed complaint alleges that Respondent engaged in a deceptive act or practice by falsely representing that it was a certified participant in the EU-U.S. and Swiss-U.S. Privacy Shield Frameworks.

Part I of the proposed order prohibits the company from making misrepresentations about its membership in any privacy or security program sponsored by the government or any other self-regulatory or standard-setting organization, including, but not limited to, the EU-U.S. Privacy Shield framework and the Swiss-U.S. Privacy Shield framework.

Parts II through V of the proposed order are reporting and compliance provisions. Part II requires acknowledgement of the order and dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Part III ensures notification to the FTC of changes in corporate status and mandates that the company submit an initial compliance report to the FTC. Part IV requires the company to create certain documents relating to its compliance with the order for twenty (20) years and to retain those documents for a five-year period. Part V mandates that the company make available to the FTC information or subsequent compliance reports, as requested.

Part VI is a provision ''sun-setting'' the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2019–19396 Filed 9–6–19; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 182 3194]

LotaData, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 9, 2019.

ADDRESSES: Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''LotaData, Inc.; File No. 182 3194'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Robin Wetherill (202–326–2220), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 3, 2019), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before October 9, 2019. Write ''LotaData, Inc.; File No. 182 3194'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''LotaData, Inc.; File No. 182 3194'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your

comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 9, 2019. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a consent order from LotaData, Inc. (''LotaData'' or ''Respondent'').

The proposed consent order (''proposed order'') has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter concerns alleged false or misleading representations that LotaData made concerning its participation in the Privacy Shield frameworks agreed upon by the U.S. and, respectively, the European Union (''EU'') and the Swiss Federation. The Privacy Shield frameworks allow U.S. companies to receive personal data transferred from the EU and Switzerland without violating EU or Swiss law. The frameworks consist of a set of principles and related requirements that have been deemed by the European Commission and the Swiss authorities as providing ''adequate'' privacy protection. The principles include notice; choice; accountability for onward transfer; security; data integrity and purpose limitation; access; and recourse, enforcement, and liability. The related requirements include, for example, securing an independent recourse mechanism to handle any disputes about how the company handles information about EU citizens.

To participate in the frameworks, a company must comply with the Privacy Shield principles and self-certify that compliance to the U.S. Department of Commerce (''Commerce''). Commerce reviews companies' self-certification applications and maintains a public website, *https://www.privacyshield.gov/list,* where it posts the names of companies who have completed the requirements for certification. Companies are required to recertify every year in order to continue benefitting from Privacy Shield.

LotaData provides analysis of mobile users' location data. According to the Commission's complaint, LotaData published on its website, *http://www.lotadata.com,* a privacy policy containing statements related to its participation in Privacy Shield.

The Commission's proposed one-count complaint alleges that Respondent violated Section 5(a) of the Federal Trade Commission Act. Specifically, the proposed complaint alleges that Respondent engaged in a deceptive act or practice by falsely representing that it was a certified participant in the EU-U.S. and Swiss-U.S. Privacy Shield Frameworks.

Part I of the proposed order prohibits the company from making misrepresentations about its membership in any privacy or security program sponsored by the government or any other self-regulatory or standard-setting organization, including, but not limited to, the EU-U.S. Privacy Shield framework and the Swiss-U.S. Privacy Shield framework.

Parts II through V of the proposed order are reporting and compliance provisions. Part II requires acknowledgement of the order and dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Part III ensures notification to the FTC of changes in corporate status and mandates that the company submit an initial compliance report to the FTC. Part IV requires the company to create certain documents relating to its compliance with the order for ten (10) years and to retain those documents for a five-year period. Part V mandates that the company make available to the FTC information or subsequent compliance reports, as requested.

Part VI is a provision ''sun-setting'' the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2019–19392 Filed 9–6–19; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 182 3193]

Trueface.ai; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 9, 2019.

ADDRESSES: Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''Trueface.ai; File No. 182 3193'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Robin Wetherill (202–326–2220), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade

Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 3, 2019), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before October 9, 2019. Write ''Trueface.ai; File No. 182 3193'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''Trueface.ai; File No. 182 3193'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 9, 2019. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a consent order from 214 Technologies, Inc. d/b/a Trueface.ai (''Trueface.ai'' or ''Respondent'').

The proposed consent order (''proposed order'') has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter concerns alleged false or misleading representations that Trueface.ai made concerning its participation in the Privacy Shield framework agreed upon by the U.S. and the European Union (''EU''). The Privacy Shield framework allows U.S. companies to receive personal data transferred from the EU without violating EU. The frameworks consist of a set of principles and related requirements that have been deemed by the European Commission as providing ''adequate'' privacy protection. The principles include notice; choice; accountability for onward transfer; security; data integrity and purpose limitation; access; and recourse, enforcement, and liability. The related requirements include, for example, securing an independent recourse mechanism to handle any disputes about how the company handles information about EU citizens.

To participate in the frameworks, a company must comply with the Privacy Shield principles and self-certify that compliance to the U.S. Department of Commerce (''Commerce''). Commerce reviews companies' self-certification applications and maintains a public website, *https://www.privacyshield.gov/list,* where it posts the names of companies who have completed the requirements for certification. Companies are required to recertify every year in order to continue benefitting from Privacy Shield.

Trueface.ai provides face recognition and digital identity verification services. According to the Commission's complaint, Trueface.ai published on its website, *http://www.trueface.ai,* a privacy policy containing statements related to its participation in Privacy Shield.

The Commission's proposed one-count complaint alleges that Respondent violated Section 5(a) of the Federal Trade Commission Act. Specifically, the proposed complaint alleges that Respondent engaged in a deceptive act or practice by falsely representing that it was a certified participant in the EU-U.S. Privacy Shield Framework.

Part I of the proposed order prohibits the company from making misrepresentations about its membership in any privacy or security

program sponsored by the government or any other self-regulatory or standard-setting organization, including, but not limited to, the EU-U.S. Privacy Shield framework and the Swiss-U.S. Privacy Shield framework.

Parts II through V of the proposed order are reporting and compliance provisions. Part II requires acknowledgement of the order and dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Part III ensures notification to the FTC of changes in corporate status and mandates that the company submit an initial compliance report to the FTC. Part IV requires the company to create certain documents relating to its compliance with the order for ten (10) years and to retain those documents for a five-year period. Part V mandates that the company make available to the FTC information or subsequent compliance reports, as requested.

Part VI is a provision ''sun-setting'' the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2019–19393 Filed 9–6–19; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 182 3195]

EmpiriStat, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 9, 2019.

ADDRESSES: Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''EmpiriStat, Inc.; File No. 182 3195'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Robin Wetherill (202–326–2220), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 3, 2019), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before October 9, 2019. Write ''EmpiriStat, Inc.; File No. 182 3195'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''EmpiriStat, Inc.; File No. 182 3195'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the

news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 9, 2019. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a consent order from EmpiriStat, Inc. (''EmpiriStat'' or ''Respondent'').

The proposed consent order (''proposed order'') has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter concerns alleged false or misleading representations that EmpiriStat made concerning its participation in and compliance with the Privacy Shield framework agreed upon by the U.S. and the European Union (''EU''). The Privacy Shield framework allows U.S. companies to receive personal data transferred from the EU without violating EU. The frameworks consist of a set of principles and related requirements that have been deemed by the European Commission as providing ''adequate'' privacy protection. The principles include notice; choice; accountability for onward transfer; security; data integrity and purpose limitation; access; and recourse, enforcement, and liability. The related requirements include, for example, securing an independent recourse mechanism to handle any disputes about how the company handles information about EU citizens.

To participate in the frameworks, a company must comply with the Privacy Shield principles and self-certify that compliance to the U.S. Department of Commerce (''Commerce''). Commerce reviews companies' self-certification applications and maintains a public website, *https://www.privacyshield.gov/list,* where it posts the names of companies who have completed the requirements for certification. Companies are required to recertify every year in order to continue benefitting from Privacy Shield.

EmpiriStat provides statistical analysis and clinical trial support services. According to the Commission's complaint, EmpiriStat published on its website, *http://www.empiristat.com,* a privacy policy containing statements related to its participation in Privacy Shield.

The Commission's proposed three-count complaint alleges that Respondent violated Section 5(a) of the Federal Trade Commission Act. Specifically, the proposed complaint alleges that Respondent engaged in a deceptive act or practice by falsely representing that it was a certified participant in the EU-U.S. and Swiss-U.S. Privacy Shield frameworks. The proposed complaint further alleges that Respondent engaged in deceptive acts or practices by representing that it complied with those frameworks when in fact it had failed to comply with certain Privacy Shield requirements.

Part I of the proposed order prohibits the company from making misrepresentations about its membership in any privacy or security program sponsored by the government or any other self-regulatory or standard-setting organization, including, but not limited to, the EU-U.S. Privacy Shield framework and the Swiss-U.S. Privacy Shield framework.

Part II of the proposed order requires that the company affirm to Commerce that it will either continue to apply the Privacy Shield framework principles to any data it received pursuant to frameworks or will delete or return such data.

Parts III through VI of the proposed order are reporting and compliance provisions. Part III requires acknowledgement of the order and dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Part IV ensures notification to the FTC of changes in corporate status and mandates that the company submit an initial compliance report to the FTC. Part V requires the company to create certain documents relating to its compliance with the order for ten (10) years and to retain those documents for a five-year period. Part VI mandates that the company make available to the FTC information or subsequent compliance reports, as requested.

Part VII is a provision ''sun-setting'' the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2019–19395 Filed 9–6–19; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 182 3188]

DCR Workforce, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 9, 2019.

ADDRESSES: Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''DCR Workforce, Inc.; File No. 182 3188'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Robin Wetherill (202–326–2220), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been

filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 3, 2019), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before October 9, 2019. Write ''DCR Workforce, Inc.; File No. 182 3188'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''DCR Workforce, Inc.; File No. 182 3188'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 9, 2019. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a consent order from DCR Workforce, Inc. (''DCR Workforce'' or ''Respondent'').

The proposed consent order (''proposed order'') has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter concerns alleged false or misleading representations that DCR Workforce made concerning its participation in the Privacy Shield framework agreed upon by the U.S. and the European Union (''EU''). The Privacy Shield framework allows U.S. companies to receive personal data transferred from the EU without violating EU. The frameworks consist of a set of principles and related requirements that have been deemed by the European Commission as providing ''adequate'' privacy protection. The principles include notice; choice; accountability for onward transfer; security; data integrity and purpose limitation; access; and recourse, enforcement, and liability. The related requirements include, for example, securing an independent recourse mechanism to handle any disputes about how the company handles information about EU citizens.

To participate in the frameworks, a company must comply with the Privacy Shield principles and self-certify that compliance to the U.S. Department of Commerce (''Commerce''). Commerce reviews companies' self-certification applications and maintains a public website, *https://www.privacyshield.gov/list,* where it posts the names of companies who have completed the requirements for certification. Companies are required to recertify every year in order to continue benefitting from Privacy Shield.

DCR Workforce provides workforce management software. According to the Commission's complaint, DCR Workforce published on its website, *http://www.dcrworkforce.com,* a privacy policy containing statements related to its participation in Privacy Shield.

The Commission's proposed one-count complaint alleges that Respondent violated Section 5(a) of the Federal Trade Commission Act. Specifically, the proposed complaint alleges that Respondent engaged in a deceptive act or practice by falsely representing that it was a certified participant in the EU-U.S. Shield Framework.

Part I of the proposed order prohibits the company from making misrepresentations about its membership in any privacy or security program sponsored by the government or any other self-regulatory or standard-setting organization, including, but not limited to, the EU-U.S. Privacy Shield framework and the Swiss-U.S. Privacy Shield framework.

Parts II through V of the proposed order are reporting and compliance provisions. Part II requires acknowledgement of the order and dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Part III ensures notification to the FTC of changes in corporate status and mandates that the company submit an initial compliance report to the FTC. Part IV requires the company to create certain documents relating to its compliance with the order for twenty (20) years and to retain those documents for a five-year period. Part V mandates that the company make available to the FTC information or subsequent compliance reports, as requested.

Part VI is a provision ''sun-setting'' the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2019–19394 Filed 9–6–19; 8:45 am]

BILLING CODE 6750–01–P

OFFICE OF GOVERNMENT ETHICS

Privacy Act of 1974; Systems of Records

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice of a modified system of records.

SUMMARY: OGE proposes to revise an existing Governmentwide system of records under the Privacy Act, covering Executive Branch Confidential Financial Disclosure Reports.

DATES: This action will be effective without further notice on November 8, 2019 unless comments received before this date would result in a contrary determination.

ADDRESSES: Comments may be submitted to OGE by any of the following methods:

Email: usoge@oge.gov (Include reference to ''OGE/GOVT–2'' in the subject line of the message.)

Mail, Hand Delivery/Courier: Office of Government Ethics, 1201 New York Avenue NW, Suite 500, Attention: Jennifer Matis, Associate Counsel, Washington, DC 20005–3917.

Instructions: Comments may be posted on OGE's website, *www.oge.gov.* Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information before posting.

FOR FURTHER INFORMATION CONTACT: Jennifer Matis at the U.S. Office of Government Ethics; telephone: 202–482–9216; TTY: 800–877–8339; FAX: 202–482–9237; Email: *jmatis@oge.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, this document provides public notice that OGE is proposing to revise and update the OGE/GOVT–2 Governmentwide system of records in several respects. A Governmentwide system of records is a system of records where one agency (in this case, OGE) has regulatory authority over records in the custody of multiple agencies and the agency with regulatory authority publishes a SORN that applies to all of the records regardless of their custodial location.

OGE proposes to add two new routine uses as required by OMB Memorandum ''Preparing for and Responding to a Breach of Personally Identifiable Information,'' M–17–12, (January 3, 2017). These new routine uses allow agencies to disclose information when necessary to respond to a suspected or confirmed breach or to prevent, minimize, or remedy harm resulting from such a breach.

OGE proposes to change the description of the categories of individuals covered by the system of records to make it more clear and easy to understand. By eliminating much of the technical description, the new language is more concise and consistent with plain language goals. No substantive change in the categories of individuals covered by the system of records is proposed. Likewise, OGE proposes to update the retention and disposal information to reflect the current General Records Schedule retention and disposal requirements for these records.

OGE proposes to modify routine uses (e.) (formerly routine use (f.)) and (g.) (formerly routine use (h.)) and remove the old routine use (b.) in accordance with OMB and Department of Justice guidance and applicable case law. The remaining routine uses have been re-designated accordingly.

Finally, the changes will update the authority for maintenance of the system, the categories of records in the system, and the administrative, technical, and physical safeguards, update the system manager and notification procedure in accordance with OGE's current organizational structure, clarify the language in the ''Purpose'' section, and make minor editorial changes.

Accordingly, the Office of Government Ethics is publishing the following notice of a proposed revised Governmentwide system of records covering Executive Branch Confidential Financial Disclosure Reports:

SYSTEM NAME AND NUMBER:

OGE/GOVT–2, Executive Branch Confidential Financial Disclosure Reports.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Individual agency ethics offices or other designated agency offices.

SYSTEM MANAGER(S):

These records are maintained in the department or agency where the reports are filed. For questions about a particular report, contact the Designated Agency Ethics Official (DAEO) at the department or agency concerned. For general questions about this system of records, contact the OGE Senior Agency Official for Privacy, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005–3917.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. app. (Ethics in Government Act of 1978); E.O. 12674 (as modified by E.O. 12731); 5 CFR part 2634.

PURPOSE(S) OF THE SYSTEM:

These records are collected and maintained to meet the requirements of Executive Order 12674, as modified, 5 CFR part 2634, and agency regulations thereunder, as well as section 107 of the Ethics in Government Act of 1978, as amended, concerning the filing of confidential financial disclosure reports. Such reports are required to assure compliance with ethics laws and regulations, and to determine if an actual or apparent conflict of interest exists between the employment of individuals by the Federal Government and their outside employment and financial interests.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers and employees in the executive branch whose positions have been designated as confidential financial disclosure filing positions in accordance with 5 CFR 2634.904 and 5 U.S.C. app. 107. In addition, all executive branch special Government

employees (SGE) as defined in 18 U.S.C. 202(a) and 5 CFR 2634.105(s) are required to file unless they are required to file public financial disclosure reports or their positions have been excluded from filing. The system of records includes both current and former Federal employees in these categories.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain statements and amended statements of personal and family holdings and other interests in property; income; gifts and reimbursements; liabilities; agreements and arrangements; outside positions; and other information related to conflict of interest determinations. These statements include completed copies of the OGE Form 450 and completed copies of agency supplemental or alternative confidential report forms.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The subject individual or by a designated person such as a trustee, attorney, accountant, banker, or relative.

b. Federal officials who review the statements to make conflict of interest determinations.

c. Persons alleging conflicts of interests or other violations of ethics laws and persons contacted during any investigation of the allegations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These confidential records and the information contained therein may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source when necessary to obtain information relevant to a conflict-of-interest investigation or determination.

c. To disclose information to the National Archives and Records Administration or the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

d. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

e. To disclose information when the disclosing agency determines that that the records are arguably relevant to a proceeding before a court, grand jury, or administrative or adjudicative body; or in a proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

f. To disclose the confidential financial disclosure report or certificate of no new interests and any accompanying documents to reviewing officials in a new office, department or agency when an employee transfers or is detailed from a covered position in one office, department or agency to a covered position in another office, department or agency.

g. To disclose information to a Member of Congress or a congressional office in response to an inquiry made on behalf of, and at the request of, an individual who is the subject of the record.

h. To disclose information to contractors, grantees, experts, consultants, detailees, and other non-Government employees performing or working on a contract, service, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

i. To disclose information to appropriate agencies, entities, and persons when: (1) The agency maintaining the records suspects or has confirmed that there has been a breach of the system of records; (2) the agency maintaining the records has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the agency (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the agency's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

j. To disclose information to another Federal agency or Federal entity, when the agency maintaining the record determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

Note: When an agency is requested to furnish records in this system of records to the Director or other authorized officials of the Office of Government Ethics (OGE), such a disclosure is to be considered as made to those officers and employees of the agency which co- maintains the records who have a need for the records in the performance of their official duties in accordance with the Ethics in Government Act of 1978, 5 U.S.C. app., and other ethics-related laws, Executive orders, and regulations conferring pertinent authority on OGE, pursuant to the provisions of the Privacy Act at 5 U.S.C. 552a(b)(1).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained in paper and/or electronic form.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by the name or other programmatic identifier assigned to the individual on whom they are maintained.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

In accordance with the National Archives and Records Administration General Records Schedule 2.8 Employee Ethics Records, these records generally are retained for six years after filing, except when filed by or with respect to a nominee and the nominee ceases to be under consideration for the position. However, if any records are needed in an ongoing investigation, they will be retained until no longer needed in the investigation. Destruction is by shredding or electronic deletion.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

With regard to OGE records, these records are located in locked file storage areas or in specified areas to which only authorized personnel have access. Electronic records are protected from unauthorized access through password identification procedures, limited access, firewalls, and other system-based protection methods. Executive branch agencies are responsible for properly safeguarding the records maintained in their systems.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the DAEO or designee at the agency where the reports were filed. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Department or agency and component with which employed or proposed to be employed.

c. Dates of employment.

d. A reasonably specific description of the record content being sought.

Individuals requesting access to records maintained at OGE must also follow OGE's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 2606).

CONTESTING RECORD PROCEDURES:

Because the information in these records is updated on a periodic basis, most record corrections can be handled through established administrative procedures for updating records. However, individuals can obtain information on the procedures for contesting the records under the provisions of the Privacy Act by contacting the DAEO or designee at the agency where the reports were filed.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the DAEO at the department or agency concerned. For records maintained at OGE, contact the OGE Senior Agency Official for Privacy, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005–3917.

Individuals wishing to make such an inquiry must furnish the following information for their records to be located and identified:

a. Full name.

b. Department or agency and component where employed or where proposed to be employed.

c. Dates of employment.

Individuals seeking to determine if an OGE system of records contains information about them must also follow OGE's Privacy Act regulations regarding verification of identity (5 CFR part 2606).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

This system of records was originally published in full at 55 FR 6327 (Feb. 22, 1990) and subsequently amended by 68 FR 3097 (Jan. 22, 2003) and 68 FR 24744 (May 8, 2003).

Approved: September 4, 2019.

Emory Rounds,

Director, U.S. Office of Government Ethics.

[FR Doc. 2019–19373 Filed 9–6–19; 8:45 am]

BILLING CODE 6345–03–P

OFFICE OF GOVERNMENT ETHICS

Privacy Act of 1974; Systems of Records

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice of a modified system of records.

SUMMARY: OGE proposes to revise an existing Governmentwide system of records under the Privacy Act, covering Executive Branch Personnel Public Financial Disclosure Reports and Other Name-Retrieved Ethics Program Records.

DATES: This action will be effective without further notice on November 8, 2019 unless comments received before this date would result in a contrary determination.

ADDRESSES: Comments may be submitted to OGE by any of the following methods:

Email: usoge@oge.gov (Include reference to ''OGE/GOVT–1'' in the subject line of the message.)

Mail, Hand Delivery/Courier: Office of Government Ethics, 1201 New York Avenue NW, Suite 500, Attention: Jennifer Matis, Associate Counsel, Washington, DC 20005–3917.

Instructions: Comments may be posted on OGE's website, *www.oge.gov.* Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information before posting.

FOR FURTHER INFORMATION CONTACT: Jennifer Matis at the U.S. Office of Government Ethics; telephone: 202–482–9216; TTY: 800–877–8339; FAX: 202–482–9237; Email: *jmatis@oge.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, this document provides public notice that OGE is proposing to revise and update the OGE/GOVT–1 Governmentwide system of records in several respects. A Governmentwide system of records is a system of records where one agency (in this case, OGE) has regulatory authority over records in the custody of multiple agencies and the agency with regulatory authority publishes a system of records notice that applies to all of the records regardless of their custodial location.

OGE proposes to add or modify several routine uses to allow for greater transparency into executive branch ethics records. Specifically, the new routine use (l.) permits OGE to make public without restriction a certificate of divestiture issued by OGE. The new routine use (m.) permits OGE to make public without restriction waivers of the requirements contained in Executive Order 13770 ''Ethics Commitments by Executive Branch Appointees'' (January 28, 2017) or any superseding Executive order. OGE also proposes to modify routine use (k.) (formely routine use (l.)) to clarify that certifications of ethics agreement compliance may be disclosed in the same manner as the ethics agreements themselves. Notwithstanding any of these changes, however, OGE will continue to release documents only to the extent consistent with 5 CFR 2634.603(b).

These changes further the purposes of the Freedom of Information Act, as amended, 5 U.S.C. 552, and the Office of Management and Budget's (OMB) Open Government Directive, M–10–06, (December 8, 2009). OGE's prevention mission involves engaging the public to inform them about the systems in place to detect and resolve conflicts of interests of their Government leaders. This, in turn, allows the public to engage in overseeing the integrity of its Government and increases public confidence in Government decisionmaking. Accordingly, promoting transparency into the executive branch ethics program is also a key element of OGE's 2018–2022 Strategic Plan, which sets forth strategic objectives to *Inform the Public about OGE and the Executive Branch Ethics Program* (Strategic Objective 4.1) and *Make Ethics Information Publicly Available* (Strategic Objective 4.2). Moreover, OGE's stakeholders, including non-governmental organizations, Congress, and the general public, have expressed interest in increased transparency into the ethics commitments made by executive branch officials.

In addition to these changes promoting transparency, OGE proposes to modify routine use (h.) (formerly routine use (i.)) to explicitly indicate that statements notifying an employee's supervising ethics office of the commencement of negotiations for future employment or compensation, or of an agreement for future employment or compensation, may be disclosed to reviewing officials in a new office, department, or agency when an employee transfers or is detailed from one covered position to another. These statements, mandated by the Representative Louise McIntosh Slaughter Stop Trading on Congressional Knowledge Act (STOCK Act), Public Law 112–105 (2012), are commonly called ''STOCK Act notifications.'' It is OGE's position that such disclosures are currently permitted

pursuant to routine use (d.) (formerly routine use (e.)). However, this change would provide greater clarity for agency ethics officials and executive branch employees who may not realize that such a disclosure is permitted under the current language.

OGE proposes to add two additional new routine uses as required by OMB Memorandum ''Preparing for and Responding to a Breach of Personally Identifiable Information,'' M–17–12, (January 3, 2017). These new routine uses allow agencies to disclose information when necessary to respond to a suspected or confirmed breach or to prevent, minimize, or remedy harm resulting from such a breach.

OGE proposes to modify routine uses (g.) (formerly routine use (h.)) and (i.) (formerly routine use (j.)) and remove the old routine use (d.) in accordance with OMB and Department of Justice guidance and applicable case law. The remaining routine uses have been re-designated accordingly.

OGE proposes to change the description of the categories of individuals covered by the system of records to make it more clear and easy to understand. By eliminating much of the technical description, the new language is more concise and consistent with plain language goals. No substantive change in the categories of individuals covered by the system of records is proposed.

Finally, the changes will update the system manager and notification procedure in accordance with OGE's current organizational structure, update the authority for maintenance of the system, update the administrative, technical, and physical safeguards, clarify the language in the ''Purpose'' section, and make minor editorial changes.

Accordingly, the Office of Government Ethics is publishing the following notice of a revised Governmentwide system of records covering Executive Branch Personnel Public Financial Disclosure Reports and Other Name-Retrieved Ethics Program Records:

SYSTEM NAME AND NUMBER:

OGE/GOVT–1, Executive Branch Personnel Public Financial Disclosure Reports and Other Name-Retrieved Ethics Program Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005–3917, and designated agency ethics offices.

SYSTEM MANAGER(S):

a. For records filed directly with the Office of Government Ethics by non-OGE employees: General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005–3917.

b. For records filed with a Designated Agency Ethics Official (DAEO) or the head of a department or agency: The DAEO at the department or agency concerned.

c. For records filed with the Federal Election Commission (FEC) by candidates for President or Vice President: The General Counsel, Office of General Counsel, Federal Election Commission, 999 E Street NW, Washington, DC 20463.

d. For general questions about this system of records, contact the OGE Senior Agency Official for Privacy, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005–3917.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7301, 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); 31 U.S.C. 1353; E.O. 12674 (as modified by E.O. 12731); E.O. 13770 or any superseding Executive order; Representative Louise McIntosh Slaughter Stop Trading on Congressional Knowledge Act (STOCK Act), Public Law 112–105 (2012); 5 CFR part 2634.

PURPOSE(S) OF THE SYSTEM:

All records are collected and maintained in accordance with the requirements of the Ethics in Government Act of 1978 and the Ethics Reform Act of 1989, as amended, and Executive Order 12674, as modified, and OGE and agency regulations thereunder. These records include the filing of financial disclosure reports and ethics agreements, waivers issued to an officer or employee pursuant to section 208 of title 18 or Executive order, and certificates of divestiture issued pursuant to section 502 of the Ethics Reform Act. Such reports and related records are required to assure compliance with ethics laws and regulations, and to determine if an actual or apparent conflict of interest exists between the employment of individuals by the Federal Government and their outside employment and financial interests.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system of records contains records about individuals whose positions have been designated as public financial disclosure filing positions in accordance with 5 U.S.C. app. 101 and 5 CFR 2634.202. This system of records includes both former and current employees in these categories who have filed financial disclosure statements under the requirements of the Ethics in Government Act of 1978, as amended, or who otherwise come under the requirements of the Ethics in Government Act. This system of records also contains information that is necessary for administering all provisions of the Ethics in Government Act of 1978 and the Ethics Reform Act of 1989 (Pub. L. 101–194), as amended, and E.O. 12674, as modified, on any current or former officer or employee of the executive branch.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains: Financial information such as salary, dividends, retirement benefits, interests in property, deposits in a bank and other financial institutions; information on gifts received; information on certain liabilities; information about positions as an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business, non-profit organization, labor organization, or educational institution; information about non-Government employment agreements, such as leaves of absence to accept Federal service, continuation of payments by a non-Federal employer; and information about assets placed in trust pending disposal. This system of records also includes other documents developed or information and material received by the Director of the Office of Government Ethics, or agency ethics officials in administering the Ethics in Government Act of 1978 or the Ethics Reform Act of 1989, as amended, which are retrieved by name or other personal identifier. Such other documents or information may include, but will not be limited to: ethics agreements, documentation of waivers issued to an officer or employee by an agency pursuant to section 208(b)(1) or section 208(b)(3) of title 18, U.S.C., or pursuant to Executive orders; certificates of divestiture issued by the President or by the Director of OGE pursuant to section 502 of the Ethics Reform Act of 1989; information necessary for the rendering of ethics counseling, advice or formal advisory opinions, or the resolution of complaints; the actual opinions issued; and records of referrals and consultations regarding current and former employees who are or have been the subject of conflicts of interest or standards of conduct inquiries or

determinations, or employees who are alleged to have violated department, agency or Federal ethics statutes, rules, regulations or Executive orders. Such information may include correspondence, documents or material concerning an individual's conduct, reports of investigations with related exhibits, statements, affidavits or other records obtained during an inquiry. The information does not include information from confidential financial disclosure reports, which is maintained in OGE/GOVT–2, Executive Branch Confidential Financial Disclosure Reports.

These records may include information related to personal and family financial and other business interests, positions held outside the Government and acceptance of gifts. The records may also contain reports of action taken by the agency and decisions and reports on legal or disciplinary action resulting from any referred administrative action or prosecution.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The subject individual or by a designated person, such as a trustee, attorney, accountant, banker, or relative.

b. Federal officials who review the statements to make conflict of interest determinations.

c. Persons alleging conflict of interests or violations of other ethics laws and persons contacted during any investigation of the allegations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose information furnished in accordance with sections 105 and 402(b)(1) of the Ethics in Government Act of 1978, 5 U.S.C. app., as amended, and subject to the limitations contained therein, to any requesting person.

b. To disclose to any requesting person, in accordance with section 105 of the Ethics in Government Act, as amended, and subject to the limitations contained in section 208(d)(1) of title 18, U.S.C., any determination granting an exemption pursuant to 208(b)(1) or 208(b)(3) of title 18, U.S.C. These determinations are commonly called ''conflict of interest waivers.''

c. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

d. To disclose information to any source when necessary to obtain information relevant to a conflict-of-interest investigation or determination.

e. To disclose information to the National Archives and Records Administration or the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

f. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

g. To disclose information when the disclosing agency determines that that the records are arguably relevant to a proceeding before a court, grand jury, or administrative or adjudicative body; or in a proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

h. To disclose the public financial disclosure report and any accompanying documents, including statements notifying an employee's supervising ethics office of the commencement of negotiations for future employment or compensation or of an agreement for future employment or compensation pursuant to section 17 of the STOCK Act (Pub. L. 112–105), to reviewing officials in a new office, department or agency when an employee transfers or is detailed from a covered position in one office, department or agency to a covered position in another office, department or agency.

i. To disclose information to a Member of Congress or a congressional office in response to an inquiry made on behalf of, and at the request of, an individual who is the subject of the record.

j. To disclose information to contractors, grantees, experts, consultants, detailees, and other non-Government employees performing or working on a contract, service, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

k. To disclose on the OGE website and to otherwise disclose to any person, including other departments and agencies, any written ethics agreements, including certifications of ethics agreement compliance, filed with the Office of Government Ethics, pursuant to 5 CFR 2634.803, by an individual nominated by the President to a position requiring Senate confirmation when the position also requires the individual to file a public financial disclosure report.

l. To disclose on the OGE website and to otherwise disclose to any person, including other departments and agencies, any certificate of divestiture issued by the Office of Government Ethics, pursuant to 26 U.S.C. 1043.

m. To disclose on the OGE website and to otherwise disclose to any person, including other departments and agencies, any waiver issued by the President or the President's designee of the restrictions contained in Executive Order 13770 ''Ethics Commitments by Executive Branch Appointees'' (January 28, 2017) or any superseding Executive order.

n. To disclose information to appropriate agencies, entities, and persons when: (1) The agency maintaining the records suspects or has confirmed that there has been a breach of the system of records; (2) the agency maintaining the records has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the agency (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the agency's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

o. To disclose information to another Federal agency or Federal entity, when the agency maintaining the record determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

Note: When an agency is requested to furnish records in this system of records to the Director or other authorized officials of the Office of Government Ethics (OGE), such a disclosure is to be considered as made to those officers and employees of the agency which co-maintains the records who have a need for the records in the performance of their official duties in accordance with the Ethics in Government Act of 1978, 5 U.S.C. app., and other ethics-related laws, Executive orders and regulations conferring pertinent authority on OGE, pursuant to the provisions of the Privacy Act at 5 U.S.C. 552a(b)(1).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained in paper and/or electronic form.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by the name or other programmatic identifier assigned to the individual about whom they are maintained.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

In accordance with the National Archives and Records Administration General Records Schedule 2.8 Employee Ethics Records, these records are generally retained for a period of six years after filing, or for such other period of time as is provided for in that schedule for certain specified types of ethics records. In cases where records are filed by, or with respect to, a nominee for an appointment requiring confirmation by the Senate when the nominee is not appointed and Presidential and Vice-Presidential candidates who are not elected, the records are generally destroyed one year after the date the individual ceased being under Senate consideration for appointment or is no longer a candidate for office. However, if any records are needed in an ongoing investigation, they will be retained until no longer needed in the investigation. Destruction is by shredding or electronic deletion.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

These records are maintained in file cabinets which may be locked or in specified areas to which only authorized personnel have access. Access to the data in the executive branch-wide *Integrity* public financial disclosure information system and OGE electronic systems is protected by electronic controls, such as multifactor authentication and password protection. Access to the systems is controlled based on user roles and responsibilities. Executive branch agencies control their users' access to information in *Integrity* and are responsible for properly safeguarding the records maintained in their systems.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the appropriate office as shown in the Notification Procedure section. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Department or agency and component with which employed or proposed to be employed.

c. Dates of employment.

d. A reasonably specific description of the record content being sought.

Individuals requesting access to records maintained at OGE must also follow OGE's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 2606).

CONTESTING RECORD PROCEDURES:

Because the information in these records is updated on a periodic basis, most record corrections can be handled through established administrative procedures for updating the records. However, individuals can obtain information on the procedures for contesting the records under the provisions of the Privacy Act by contacting the appropriate office shown in the Notification Procedure section.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact, as appropriate:

a. For records filed directly with OGE by non-OGE employees, contact the General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005–3917;

b. For records filed with a Designated Agency Ethics Official (DAEO) or the head of a department or agency, contact the DAEO at the department or agency concerned; and

c. For records filed with the FEC by candidates for President or Vice President, contact the FEC General Counsel, Federal Election Commission, 999 E Street NW, Washington, DC 20463.

Individuals wishing to make such an inquiry must furnish the following information for their records to be located and identified:

a. Full name.

b. Department or agency and component with which employed or proposed to be employed.

c. Dates of employment.

Individuals seeking to determine if an OGE system of records contains information about them must also follow OGE's Privacy Act regulations regarding verification of identity (5 CFR part 2606).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

This system of records was originally published in full at 55 FR 6327 (Feb. 22, 1990) and subsequently amended by the following notices: 68 FR 3097 (Jan. 22, 2003); 68 FR 24744 (May 8, 2003); 76 FR 24489 (May 2, 2011); 77 FR 45353 (July 31, 2012); 78 FR 73863 (Dec. 9, 2013).

Approved: September 4, 2019.

Emory Rounds,

Director, U.S. Office of Government Ethics.

[FR Doc. 2019–19372 Filed 9–6–19; 8:45 am]

BILLING CODE 6345–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–0549]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Medical Devices; Use of Symbols in Labeling—Glossary To Support the Use of Symbols in Labeling

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (PRA).

DATES: Fax written comments on the collection of information by October 9, 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 0910–0740. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *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.

Medical Devices; Use of Symbols in Labeling—Glossary To Support the Use of Symbols in Labeling

OMB Control Number 0910–0740—Extension

In the **Federal Register** of June 15, 2016 (81 FR 38911), FDA issued a final rule revising medical device and certain biological product labeling regulations by explicitly allowing for the optional use in medical device labeling of stand-alone symbols established in a Standard Development Organization (SDO)-developed standard. In particular, FDA will allow the use of stand-alone graphical representations of information, or symbols, in the labeling for the medical devices, if the symbols are established in a standard developed by an SDO as long as: (1) The standard is recognized by FDA under its authority under section 514(c) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360d(c)) and the symbol is used according to the specifications for use of the symbol set forth in FDA's section 514(c) recognition, or alternatively, (2) if the symbol is not included in a standard recognized by FDA under section 514(c) of the FD&C Act or the symbol is in a standard recognized by FDA but is not used according to the specifications for use of the symbol set out in the FDA section 514(c) recognition, the device manufacturer otherwise determines that the symbol is likely to be read and understood by the ordinary individual under customary conditions of purchase and use and uses the symbol according to the specifications for use of the symbol set forth in the SDO-developed standard. In addition, in either case, the symbol must be explained in a written or electronic symbols glossary that is included in the labeling for the medical device. Furthermore, the labeling on or within the package containing the device must bear a prominent and conspicuous statement identifying the location of the glossary that is written in English or, in the case of articles distributed solely in Puerto Rico or in a Territory where the predominant language is one other than English, the predominant language may be used. The use of such symbols must also comply with other applicable labeling requirements of the FD&C Act, such as section 502(a) and (f) (21 U.S.C. 352(a) and (f)).

The respondents for this collection of information are domestic and foreign device manufacturers who plan to use stand-alone symbols on the labels and/or labeling for their devices marketed in the United States.

In the **Federal Register** of March 19, 2019 (84 FR 10100), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received the following comments:

- Comment supporting the use of the existing rule to continue the use of symbols without explanatory text, and including additional instructions, as needed, in the symbols glossary.
- Comment suggesting the development or use of the symbol for electronic instructions for use be included.
- Comment suggesting adding requirements regarding education on the meaning of symbols in devices.
- Comment requesting future support on the use of ''homegrown'' or proprietary symbols not contained in a standard from a recognized SDO to reduce burden on space limited areas.
- Several comments requesting that we not mandate the inclusion of the title and designation number in the glossary because the commenters believe they are not necessary for the user of the medical device to understand the symbol. The commenters assert that removing the requirement for title and designation number may permit more symbols glossaries to be included in a paper Instructions for Use (IFU) versus needing to be on a website due to the amount of information needed. The commenters assert this is beneficial in that it may permit more users to see the glossary more easily than going to a web-based glossary. The comments also assert that information such as the title and designation number could be part of the submission content, rather than part of the labeling/IFU.
- Comment suggesting the use of the International Standards Organization (ISO) Symbol 1641 (Consult IFU) to replace the requirement to bear a prominent and conspicuous statement identifying the location of the symbols glossary. The comment asserts that use of ISO Symbol 1641 is believed to be globally well understood to indicate any information needed to understand the proper use of the device is in the IFU. Use of ISO symbol 1641 will also reduce burden and costs as the statement in English requires translation for use in other countries, whereas the symbol is universal.

FDA has reviewed and continues to consider comments to the extent that they relate to this information collection. We note that we continuously evaluate ways to improve stakeholder understanding of the symbols rule. We have made no changes to the information collection at this time as a result of the comments. Based upon comments received, FDA also notes that existing symbols contained within standards for an electronic IFU exist, which are intended to indicate on product or product packaging that relevant information for use of the product is available in electronic form rather than, or in addition to, printed paper form.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Glossary	3,000	1	3,000	1	3,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

Activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Glossary	3,000	1	3,000	4	12,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated burden is based on the data in a similar collection for recommended glossary and educational outreach approved under OMB control number 0910–0553 (''Use of Symbols on Labels and in Labeling of In Vitro Diagnostic Devices Intended for Professional Use''). As such, the PRA also covers the requirements of the final rule to submit the symbols glossary to FDA in otherwise required submissions during the premarket review process and to disclose it to third parties in otherwise required device labeling, which means adding to such submission or labeling a compiled listing of each SDO-established symbol used in the labeling for the device; the title and designation number of the SDO-developed standard containing the symbol; and the title of the symbol and its reference number, if any, in the standard; and the meaning or explanatory text for the symbol as provided in the FDA recognition or, if FDA has not recognized the standard or portion of the standard in which the symbol is located or the symbol is used not in accordance with the specifications for use of the symbol set out in the FDA section 514(c) recognition, the explanatory text as provided in the standard.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: September 3, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–19351 Filed 9–6–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–3840]

Electronic Submissions; Data Standards; Support for Unified Code for Units of Measure

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing its adoption of the most current set of the Unified Code for Units of Measure (UCUM) codes. The UCUM is a terminology standard that contains a system of coding units of measure used in science and medicine. UCUM offers a single coding system for units of measure that does not contain ambiguities amongst electronic communication, and assigns a concise semantics to each defined unit. FDA is encouraging sponsors and applicants to use UCUM standard for drug establishment registration and drug listing, as well as for content of product labeling provided in regulatory submissions to the Center for Biologics Evaluation and Research and the Center for Drug Evaluation and Research.

ADDRESSES: You may submit either electronic or written comments at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–N–3840 for ''Electronic Submissions; Data Standards; Support for Unified Code for Units of Measure.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure laws. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://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: Chenoa Conley, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1117, Silver Spring, MD 20993–0002, 301–796–0035, *cderdatastandards@fda.hhs.gov,* or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION: On May 23, 2005, the Secretary of the

Department of Health and Human Services announced the adoption of the Health Level 7 (HL7) units of measure standard by all U.S. Federal Agencies, which had been developed under the Consolidated Health Informatics (CHI) initiative (see 70 FR 76287, December 23, 2005 (available at *https://www.govinfo.gov/content/pkg/FR-2005-12-23/pdf/05-24289.pdf*). The CHI initiative was a Federal government-wide collaborative effort intended to implement health care information interoperability standards to enable the Federal government to more efficiently exchange electronic health care information. The UCUM units of standard measure is found in HL7 Vocabulary Table 0396 (*https://www.hl7.org/special/committees/vocab/table_0396/index.cfm*).

UCUM is a mature standard in the Interoperability Standards Advisory (ISA) (*https://www.healthit.gov/isa/representing-units-measure-use-numerical-references-and-values*). The ISA process represents the model by which the Office of the National Coordinator for Health Information Technology coordinates the identification, assessment, and public awareness of interoperability standards and implementation specifications that can be used by the health care industry to address specific interoperability needs, including, but not limited to, interoperability for clinical, public health, and research purposes.

FDA currently supports the use of UCUM codes (available at *http://unitsofmeasure.org/trac/*) in certain structured product labeling (SPL) submissions, such as labeling and electronic drug establishment registration and drug listing requirements. The SPL web page provides a list of UCUM names FDA currently accepts (available at *https://www.fda.gov/ForIndustry/DataStandards/Structured ProductLabeling/ucm168397.htm*).

Technical Specification for creating electronic files using UCUM for units of measure is provided in the Structured Product Labeling Implementation Guide for FDA Drug Establishment Registration and Drug Listing, which can be found on the FDA Structured Product Labeling Resources web page (*https://www.fda.gov/ForIndustry/DataStandards/Structured ProductLabeling/default.htm*).

Although FDA currently supports the UCUM standard, the FDA Data Standards Catalog will be updated to announce immediate implementation of the UCUM standard. After receiving comments, the Agency may consider further actions regarding the adoption of the UCUM standard and/or its implementation date.

Dated: September 3, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–19346 Filed 9–6–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–3658]

Eli Lilly and Co., et al.; Withdrawal of Approval of 25 New Drug Applications

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is withdrawing approval of 25 new drug applications (NDAs) from multiple applicants. The applicants notified the Agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

DATES: Approval is withdrawn as of October 9, 2019.

FOR FURTHER INFORMATION CONTACT: Kimberly Lehrfeld, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6226, Silver Spring, MD 20993–0002, 301–796–3137.

SUPPLEMENTARY INFORMATION: The applicants listed in the table have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications under the process in § 314.150(c) (21 CFR 314.150(c)). The applicants have also, by their requests, waived their opportunity for a hearing. Withdrawal of approval of an application or abbreviated application under § 314.150(c) is without prejudice to refiling.

Application No.	Drug	Applicant
NDA 007529	Quinidine Gluconate Injection, 80 milligrams (mg)/milliliters (mL).	Eli Lilly and Co., Lilly Corporate Center, Indianapolis, IN 46285.
NDA 016096	Mintezol (thiabendazole) Chewable Tablet, 500 mg	Merck Sharp and Dohme Corp., a subsidiary of Merck and Co., Inc., 1 Merck Dr., P.O. Box 100, Whitehouse Station, NJ 08889–0100.
NDA 016097	Mintezol (thiabendazole) Suspension 500 mg/5 mL	Do.
NDA 017439	Hydroxyprogesterone Caproate Injection, 125 mg/mL and 250 mg/mL.	Allergan Sales, LLC., 5 Giralda Farms, Madison, NJ 07940.
NDA 017831	Didronel (etidronate disodium) Tablet, 200 mg and 400 mg.	Allergan Pharmaceuticals International Limited, c/o Allergan Sales, LLC., 2525 Dupont Dr., Irvine, CA 92612.
NDA 019081	Estraderm (estradiol transdermal system), 0.05 mg/24 hour (h) and 0.1 mg/24 h.	Novartis Pharmaceuticals Corp., 1 Health Plaza, East Hanover, NJ 07936–1080.
NDA 019596	Magnevist (gadopentetate dimeglumine) Injection, 469.01 mg/mL.	Bayer HealthCare Pharmaceuticals, Inc., 100 Bayer Blvd., P.O. Box 915, Whippany, NJ 07981–0915.
NDA 020071	Desogen (desogestrel and ethinyl estradiol) Tablets, 0.15 mg/0.03 mg.	Organon USA, Inc., a subsidiary of Merck and Co., Inc., 2000 Galloping Hill Rd., Kenilworth, NJ 07033.
NDA 020120	AllerNaze (triamcinolone acetonide) Nasal Spray, 0.05 mg/spray.	Lupin Atlantis Holdings, S.A., c/o Lupin Pharmaceuticals, Inc., 111 South Calvert St., Harborplace Tower, 24th Floor, Baltimore, MD 21202.
NDA 020628	Invirase (saquinavir mesylate) Capsules, equivalent to (EQ) 200 mg base.	Hoffmann-La Roche, Inc., 1 DNA Way, South San Francisco, CA, 94080–4990.

Application No.	Drug	Applicant
NDA 020937	Optimark (gadoversetamide) Injection, 330.9 mg/mL	Liebel-Flarsheim Co., LLC., 1034 South Brentwood Blvd., Suite 800, Richmond Heights, MO 63117.
NDA 020947	Pennsaid (diclofenac sodium) Topical Solution, 1.5% weight by weight (w/w).	Nuvo Pharmaceuticals, Inc., c/o Dwayne R.J. Moore, 41 Campus Dr., Suite 202, New Gloucester, ME 04260.
NDA 020975	Optimark (gadoversetamide) Injection, 330.9 mg/mL	Liebel-Flarsheim Co., LLC.
NDA 020976	Optimark (gadoversetamide) Injection, 330.9 mg/mL	Do.
NDA 021037	Magnevist (gadopentetate dimeglumine) Injection, 469.01 mg/mL.	Bayer HealthCare Pharmaceuticals, Inc.
NDA 021105	Sulfamethoxazole and Trimethoprim Tablets, 800 mg/160 mg; and Phenazopyridine HCL Tablets, 200 mg.	Able Laboratories, Inc., 1 Able Dr., Cranbury, NJ 08512.
NDA 021144	Ketek (telithromycin) Tablets, 300 mg and 400 mg	Sanofi-Aventis U.S., LLC., 55 Corporate Dr., Bridgewater, NJ 08807.
NDA 021178	Glucovance (glyburide and metformin hydrocholoride (HCl)) Tablets, 1.25 mg/250 mg, 2.5 mg/500 mg, 5 mg/500 mg.	Bristol-Myers Squibb Co., P.O. Box 4000, Mail Stop: D.2341, Princeton, NJ 08543–4000.
NDA 021235	Prozac Weekly (fluoxetine delayed-release capsules) 90 mg.	Eli Lilly and Co.
NDA 021490	Femcon Fe (ethinyl estradiol and norethindrone tablets, 0.035 mg/0.4 mg; and ferrous fumarate tablets, 75 mg).	Allergan Pharmaceuticals International Limited, c/o Allergan Sales, LLC., 5 Giralda Farms, Madison, NJ 07940.
NDA 022011	Tyzeka (telbivudine) Tablets, 600 mg	Novartis Pharmaceuticals Corp.
NDA 022154	Tyzeka (telbivudine) Solution, 100 mg/5 mL	Do.
NDA 022328	Intermezzo (zolpidem tartrate) Sublingual Tablets, 1.75 mg and 3.5 mg.	Purdue Pharmaceutical Products L.P., 1 Stamford Forum, Stamford, CT 06901–3431.
NDA 050456	Statrol (neomycin sulfate and polymyxin B sulfate ophthalmic solution, USP) EQ 3.5 mg base/mL; equal to 16,250 units polymyxin B/mL.	Alcon Laboratories, Inc., 6201 South Freeway, Mail Stop: TC–45, Fort Worth, TX 76134–2099.
NDA 204553	ColPrep Kit (magnesium sulfate, potassium sulfate, and sodium sulfate) for Oral Solution, 1.6 grams (g)/3.13 g/17.5 g.	Gator Pharmaceuticals, Inc., 194 Inlet Dr., Saint Augustine, FL 32080.

Therefore, approval of the applications listed in the table, and all amendments and supplements thereto, is hereby withdrawn as of October 9, 2019. Approval of each entire application is withdrawn, including any strengths and dosage forms inadvertently missing from the table. Introduction or delivery for introduction into interstate commerce of products without approved new drug applications violates section 301(a) and (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(a) and (d)). Drug products that are listed in the table that are in inventory on October 9, 2019 may continue to be dispensed until the inventories have been depleted or the drug products have reached their expiration dates or otherwise become violative, whichever occurs first.

Dated: September 3, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–19348 Filed 9–6–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–6069]

Acceptance Review for De Novo Classification Requests; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance entitled ''Acceptance Review for De Novo Classification Requests.'' The purpose of this guidance is to explain the procedures and criteria FDA intends to use in assessing whether a request for an evaluation of automatic class III designation (De Novo classification request or De Novo request) meets a minimum threshold of acceptability and should be accepted for substantive review. This guidance discusses De Novo acceptance review policies and procedures, ''Refuse to Accept'' principles, and the elements of the De Novo Acceptance Checklist and the Recommended Content Checklist and is being issued to be responsive to an explicit deliverable identified in the Medical Device User Fee Amendments of 2017 (MDUFA IV).

DATES: The announcement of the guidance is published in the **Federal Register** on September 9, 2019.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: 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–2017–D–6069 for ''Acceptance Review for De Novo Classification Requests.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Acceptance Review for De Novo Classification Requests'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Sergio de del Castillo, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1538, Silver Spring, MD 20993–0002, 301–796–6419; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

The automatic class III designation for devices of a new type occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the device. Any device that is of a new type that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device under section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976.

FDA may classify a device through the De Novo classification process, which is the pathway authorized under section 513(f)(2) of the FD&C Act. Upon receipt of a De Novo request, FDA is required to classify the device by written order (section 513(f)(2)(A)(iii) of the FD&C Act). The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Per section 513(f)(2)(B)(i) of the FD&C Act, the classification is the initial classification of the device for the purposes of section 513(f)(1) of the FD&C Act.

We believe De Novo classification enhances patients' access to beneficial innovation, in part by reducing regulatory burdens. When FDA classifies a device into class I or II via the De Novo classification process, the device can serve as a predicate for future devices of that type, including for 510(k)s (section 513(f)(2)(B)(i)). As a result, after a De Novo request is granted, other device sponsors do not have to submit a De Novo request or premarket application under section 515 of the FD&C Act (21 U.S.C. 360e)) in order to market a substantially equivalent device (see 21 U.S.C. 360c(i), ''defining substantial equivalence''). Instead, other device sponsors can use the 510(k) process, when applicable, as a pathway to market their device.

FDA is issuing this guidance to provide clarity regarding the Agency's expectations for information to be submitted in a De Novo request and ensure predictability and consistency for sponsors. Focusing the Agency's review resources on complete De Novo requests will provide a more efficient approach to ensuring that safe and effective medical devices reach patients as quickly as possible. Moreover, with the enactment of MDUFA IV, FDA agreed to issuance of draft and final guidance, which includes a submission checklist to facilitate a more efficient and timely review process to assist with new performance goals. Acceptance review therefore takes on additional importance in both encouraging quality applications from De Novo requesters and allowing the Agency to appropriately concentrate resources on complete applications.

FDA anticipates that the Agency and industry may need a period of time to operationalize the policies within this guidance. Therefore, if all criteria necessary to meet a minimum threshold of acceptability for De Novo requests as

outlined in this guidance are not included in a De Novo request received by FDA before or up to 60 days after the publication of this guidance, FDA staff does not generally intend to refuse to accept.

FDA considered comments received on the draft guidance that appeared in the **Federal Register** of October 30, 2017 (82 FR 50144). FDA revised the guidance as appropriate in response to the comments.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Acceptance Review for De Novo Classification Requests.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* This guidance document is also available at *https://www.regulations.gov* or from the Center for Biologics Evaluation and Research at *https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm.* Persons unable to download an electronic copy of ''Acceptance Review for De Novo Classification Requests'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 16055 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in the following FDA regulations, guidance, and forms have been approved by OMB as listed in the following table:

21 CFR Part; guidance; or FDA form	Topic	OMB control No.
''De Novo Classification Process (Evaluation of Automatic Class III Designation)''.	De Novo classification process	0910–0844
807, subpart E	Premarket notification	0910–0120
814, subparts A through E	Premarket approval	0910–0231
800, 801, and 809	Medical Device Labeling Regulations	0910–0485
3	Combination products; Request for Designation	0910–0523
807, 812, and 814	Human Subject Protection; Acceptance of Data from Clinical Studies for Medical Devices.	0910–0741
54 (Forms FDA 3454 and 3455)	Financial disclosure by clinical investigators	0910–0396

Dated: September 3, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–19350 Filed 9–6–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–P–4186]

Determination That CALCIMAR (calcitonin salmon) Injection, 200 International Units Per Milliliter, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that CALCIMAR (calcitonin salmon) Injection, 200 International Units per milliliter (IU/mL), was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for CALCIMAR (calcitonin salmon) Injection, 200 IU/mL, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Nam Kim, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6272, Silver Spring, MD 20993–0002, 301–796–3472.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

CALCIMAR (calcitonin salmon) injection, 200 IU/mL, is the subject of NDA 017769, held by Sanofi Aventis, and initially approved on April 17, 1978. CALCIMAR is indicated for Paget's disease of bone, hypercalcemia, and postmenopausal osteoporosis.

CALCIMAR (calcitonin salmon) injection, 200 IU/mL, is currently listed

in the ''Discontinued Drug Product List'' section of the Orange Book.

Lachman Consultant Services, Inc. submitted a citizen petition dated December 1, 2016 (Docket No. FDA–2016–P–4186), under 21 CFR 10.30, requesting that the Agency determine whether CALCIMAR (calcitonin salmon) injection, 200 IU/mL, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that CALCIMAR (calcitonin salmon) injection, 200 IU/mL, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that CALCIMAR (calcitonin salmon) injection, 200 IU/mL, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of CALCIMAR (calcitonin salmon) injection, 200 IU/mL, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that this drug product was not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list CALCIMAR (calcitonin salmon) injection, 200 IU/mL, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to this drug product may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: September 3, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–19347 Filed 9–6–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcing Call for Nominations for Members of the President's Council on Sports, Fitness & Nutrition Science Board

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 Department of Health and Human Services (HHS) seeks nominations of qualified candidates to serve as members of the President's Council on Sports, Fitness & Nutrition Science Board.

DATES: Nominations for membership on the Science Board will be accepted through 11:59 p.m. E.T. on October 11, 2019.

ADDRESSES: Nominations should be submitted by email to *sports@hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Katrina L. Piercy, Ph.D., R.D., Office of Disease Prevention and Health Promotion (ODPHP), Office of the Assistant Secretary for Health (OASH), HHS; 1101 Wootton Parkway, Suite 420; Rockville, MD 20852; Telephone: (240) 453–8280. Email: *odphpinfo@hhs.gov.*

SUPPLEMENTARY INFORMATION: The Science Board is a subcommittee of the President's Council on Sports, Fitness & Nutrition (the Council) and is made up of Council members and scholars with expertise in the fields of physical activity, health, sports, and nutrition. The role of the Science Board is to assist the Council by providing scientific guidance. For the 2020–2021 term, the Science Board will focus its efforts around the Council's and HHS's implementation and dissemination of the *National Youth Sports Strategy* and youth sports-related topics. The main duties of the Science Board will be to: (a) Provide subject matter expertise on youth sports and related disciplines; (b) draft content for publication (*e.g.,* blogs, peer-reviewed articles) to various audiences highlighting specific youth sports topics; and (c) participate virtually in Science Board meetings and presentations to the Council.

Nominations: HHS will consider nominations, including self-nominations, for Science Board members of individuals qualified to carry out the above-mentioned tasks. Science Board members must hold a Ph.D., MD, or related terminal degree in the fields of physical activity, health, sports, and/or nutrition. The following information should be included in the package of material submitted for each individual being nominated for consideration: (1) The name, address, daytime telephone number, and email address of the nominator and the individual being nominated; (2) a letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (*i.e.,* specific attributes which qualify the nominee for service in this capacity), and a statement from the nominee that the nominee is willing to serve as a member of the Science Board; and (3) a current copy of the nominee's curriculum vitae (CV) no more than 10 pages in length. Inclusion of the following is requested in the CV: (1) Academic appointment; (2) current and/or past grant awards; (3) publications showing breadth and experience in areas of specialization; (4) paid and non-paid board and advisory appointments; and (5) education and occupational history.

All nominations must include the required information. Incomplete nominations will not be processed for consideration. All nomination information should be sent in a single email, with attachments, to *sports@hhs.gov.* All nominations must be submitted by 11:59 p.m. E.T on Friday, October 11, 2019.

Equal opportunity practices regarding membership appointments to the Science Board will be aligned with HHS policies. When possible, every effort will be made to ensure that the Science Board is a diverse group of individuals with representation from various geographic locations, racial and ethnic minorities, all genders, and persons with disabilities. Individuals will be appointed to serve as members of the Science Board to represent balanced viewpoints of the scientific evidence, not to represent the viewpoints of any specific group.

Dated: August 22, 2019.

Donald Wright,

Deputy Assistant Secretary for Health, Office of Disease Prevention and Health Promotion.

[FR Doc. 2019–19384 Filed 9–6–19; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended, notice is hereby given of following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; ESTEEMED (R25) Review Meeting (2020/01).

Date: November 1, 2019.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, Suite 920, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dennis Hlasta, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Boulevard, Suite 952, Bethesda, MD 20892, 301–451–4794, *dennis.hlasta@nih.gov*.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; P41 BTRC Review F SEP.

Date: November 5–7, 2019.

Time: 3:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Philadelphia University City, 3549 Chestnut Street, Philadelphia, PA 19104.

Contact Person: Dennis Hlasta, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Boulevard, Suite 952, Bethesda, MD 20892, 301–451–4794, *dennis.hlasta@nih.gov*.

Dated: September 3, 2019.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–19328 Filed 9–6–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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/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 Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI CHS Research Resource.

Date: October 4, 2019.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: William J. Johnson, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892–7924, 301–827–7938, *johnsonw@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 3, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–19327 Filed 9–6–19; 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 Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Mechanisms of Cancer Therapeutics—1 Study Section.

Date: October 7–8, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Cambria Hotel Chicago Loop—Theatre District, 32 W Randolph Street, Chicago, IL 60601.

Contact Person: Lambratu Rahman Sesay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–905–8294, *rahman-sesay@csr.nih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Drug Discovery and Mechanisms of Antimicrobial Resistance Study Section.

Date: October 10–11, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Cambria Suites Rockville, 1 Helen Heneghan Way, Rockville, MD 20850.

Contact Person: Guangyong Ji, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7808, Bethesda, MD 20892, 301–435–1146, *jig@csr.nih.gov*.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Addiction Risks and Mechanisms Study Section.

Date: October 10–11, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Lorien Hotel & Spa, 1600 King Street, Alexandria, VA 22314.

Contact Person: Kristen Prentice, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3112, MSC 7808, Bethesda, MD 20892, (301) 496–0726, *prenticekj@mail.nih.gov*.

Name of Committee: Immunology Integrated Review Group; Transplantation, Tolerance, and Tumor Immunology Study Section.

Date: October 10–11, 2019.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Washington DC/Georgetown, 2201 M. Street NW, Washington, DC 20037.

Contact Person: Jin Huang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4199, MSC 7812, Bethesda, MD 20892, 301–435–1230, *jh377p@nih.gov*.

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group; Bioengineering of Neuroscience, Vision and Low Vision Technologies Study Section.

Date: October 10–11, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Washington, DC Downtown, 1199 Vermont Avenue NW, Washington, DC 20005.

Contact Person: Robert C. Elliott, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5190, MSC 7846, Bethesda, MD 20892, 301–435–3009, *elliotro@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Rehabilitation Sciences Study Section.

Date: October 10, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Baltimore Marriott Waterfront, 700 Aliceanna Street, Baltimore, MD 21202.

Contact Person: Maria Nurminskaya, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20892, (301) 435–1222, *nurminskayam@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Psychosocial Risk and Disease Prevention Study Section.

Date: October 10–11, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Stacey FitzSimmons, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, (301) 451–9956, *fitzsimmonss@csr.nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Nanotechnology Study Section.

Date: October 10–11, 2019.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott Georgetown, 1221 22nd Street NW, Washington, DC 20037.

Contact Person: James J. Li, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7849, Bethesda, MD 20892, 301–806–8065, *lijames@csr.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Respiratory Integrative Biology and Translational Research Study Section.

Date: October 10–11, 2019.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Catamaran Resort, 3999 Mission Boulevard, San Diego, CA 92109.

Contact Person: Bradley Nuss, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7814, Bethesda, MD 20892, 301–451–8754, *nussb@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Biology Development and Disease Study Section.

Date: October 10–11, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115.

Contact Person: Aruna K. Behera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4211, MSC 7814, Bethesda, MD 20892, 301–435–6809, *beheraak@csr.nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Biomaterials and Biointerfaces Study Section.

Date: October 10–11, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle NW, Washington, DC 20005.

Contact Person: Joseph D. Mosca, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7808, Bethesda, MD 20892, (301) 408–9465, *moscajos@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group; Cellular and Molecular Immunology—B Study Section.

Date: October 10–11, 2019.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Grand Chicago Riverfront, 71 E Wacker Drive, Chicago, IL 60601.

Contact Person: Betty Hayden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, 301–435–1223, *haydenb@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neurogenesis and Cell Fate Study Section.

Date: October 10, 2019.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Capital View, 2850 South Potomac Avenue, Arlington, VA 22202.

Contact Person: Joanne T. Fujii, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@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: September 3, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–19326 Filed 9–6–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7014–N–24]

60-Day Notice of Proposed Information Collection: Multifamily Mortgagee's Application for Insurance Benefits

AGENCY: Office of the Assistant Secretary for Housing- Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* November 8, 2019.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is

seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Multifamily Mortgagee's Application for Insurance Benefits.

OMB Approval Number: 2502–0419.

OMB Expiration Date: 2/29/2020.

Type of Request: Extension of a currently approved collection.

Form Number: Form HUD 2747, Application for Insurance Benefits, Multifamily Mortgage.

Description of the Need for the Information and Proposed Use: A lender with an insured multifamily mortgage pays an annual insurance premium to the Department. When and if the mortgage goes into default, the lender may elect to file a claim for insurance benefits with the Department. A requirement of the claims process is the submission of an application for insurance benefits. Form HUD 2747, Mortgagee's Application for Insurance Benefits (Multifamily Mortgage), satisfies this requirement.

Respondents: Not-for-profit institutions, State, local or Tribal Government.

Estimated Number of Respondents: 110.

Estimated Number of Responses: 110.

Frequency of Response: Occasion.

Average Hours per Response: 1.

Total Estimated Burden: 110.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 26, 2019.

John L. Garvin,

General Deputy Assistant Secretary for Housing.

[FR Doc. 2019–19414 Filed 9–6–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6177–D–01]

Delegation of Concurrent Authority to the Associate Deputy Secretary

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of delegation of concurrent authority.

SUMMARY: Through this notice, the Secretary of the Department of Housing and Urban Development delegates to the Associate Deputy Secretary concurrent authority, vested in or delegated or assigned to the Secretary of Housing and Urban Development, with the exception of the power to sue and be sued and other exceptions described in section B of this notice.

DATES: August 29, 2019.

FOR FURTHER INFORMATION CONTACT: John B. Shumway, Assistant General Counsel for Administrative Law, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 9262, Washington, DC 20410–0500, telephone number 202–402–5190 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number, toll-free, through TTY by calling 800–877–8339.

SUPPLEMENTARY INFORMATION:

Under section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)), the Secretary may delegate any of the Secretary's functions, powers, and duties to such officers and employees of the Department as the Secretary may designate, and may authorize successive redelegations of such functions, powers, and duties as determined to be necessary or appropriate. In the delegation of authority published today, the Secretary is delegating to the Associate Deputy Secretary of Housing and Urban Development all the power and authority vested in or delegated or assigned to the Secretary of Housing and Urban Development to be exercised concurrently with the Secretary, with the exception of the power to sue and be sued and other exceptions described in section B of this notice. Accordingly, the Secretary delegates, as follows.

Section A. Authority Delegated

The Associate Deputy Secretary of Housing and Urban Development is hereby authorized, concurrently with the Secretary and the Deputy Secretary, as a senior official performing delegated duties of the Deputy Secretary, to exercise all the power and authority vested in or delegated or assigned to the Secretary of Housing and Urban Development, subject to the exceptions described in section B of this notice.

Section B. Authority Excepted

Excepted from the authority delegated under section A above is the authority to sue and be sued. In addition, the senior official performing delegated duties of the Deputy Secretary is not authorized to exercise the following authorities, which are retained by the Secretary and the Deputy Secretary:

1. Issue a final regulation or Notice of Funding Availability.

2. Approve any statutory or regulatory waiver request that has not been approved previously by an Assistant Secretary or the Deputy Secretary.

3. Approve any statutory or regulatory waiver request that presents novel or unique legal interpretations of statutes or policy.

4. Approve any statutory or regulatory waiver request that relates to ongoing, precedent-setting litigation.

Section C. Authority To Redelegate

The senior official performing delegated duties of the Deputy Secretary is authorized to redelegate to employees of HUD any of the authorities delegated under section A above, subject to the exceptions described in section B.

Section D. Authority Not Superseded

This delegation does not supersede the delegation of concurrent authority from the Secretary to the Deputy Secretary published in the **Federal Register** at 77 FR 66864.

Authority

Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: August 29, 2019.

Benjamin S. Carson, Sr.,

Secretary.

[FR Doc. 2019–19415 Filed 9–6–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[OMB Control Number 1010–0114; Docket ID: BOEM–2017–0016]

Agency Information Collection Activities; 30 CFR 550, Subpart A, General, and Subpart K, Oil and Gas Production Requirements in the Outer Continental Shelf

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Ocean Energy Management (BOEM) is proposing to renew an information collection request (ICR) with revisions.

DATES: Interested persons are invited to submit comments on or before November 5, 2019.

ADDRESSES: Send your comments on this ICR by mail to the BOEM Information Collection Clearance Officer, Anna Atkinson, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166; or by email to *anna.atkinson@boem.gov.* Please reference OMB Control Number 1010–0114 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Anna Atkinson by email, or by telephone at 703–787–1025.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, BOEM provides the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps BOEM assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

BOEM is soliciting comments on the proposed ICR described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of BOEM; (2) what can BOEM do to ensure that this information be processed and used in a timely manner; (3) is the burden estimate accurate; (4) how might BOEM enhance the quality, utility, and clarity of the information to be collected; and (5) how might BOEM minimize the burden of this collection on the respondents, including minimizing the burden through the use of information technology?

Comments submitted in response to this notice are a matter of public record. BOEM will include or summarize each comment in our request to the Office of Management and Budget (OMB) for approval of this ICR. You should be aware that your entire comment—including your address, phone number, email address, or other personally identifiable information—may be made publicly available at any time. In order for BOEM to withhold from disclosure your personally identifiable information, you must identify any information contained in the submittal of your comments that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequences of the disclosure of information, such as embarrassment, injury, or other harm. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

BOEM protects proprietary information in accordance with the Freedom of Information Act (5 U.S.C. 552) and the Department of the Interior's implementing regulations (43 CFR part 2), and under applicable sections of 30 CFR parts 550 and 552 promulgated pursuant to Outer Continental Shelf Lands Act (OCSLA) at 43 U.S.C. 1352(c).

Abstract: This ICR addresses regulations at 30 CFR 550 Subparts A and K, which deal with regulatory requirements of oil, gas, and sulphur operations on the OCS. This request also covers the related Notice to Lessees and Operators (NTLs) that BOEM issues to clarify and provide guidance on some aspects of our regulations, and forms BOEM–0127, BOEM–0140, BOEM–1123, and BOEM–1832.

The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior to prescribe rules and regulations to administer leasing of the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations in the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition. Section 1332(6) states that ''operations in the [Outer] Continental Shelf should be conducted in a safe manner by well trained personnel using technology, precautions, and techniques sufficient to prevent or minimize . . . loss of well control . . . physical obstructions to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property or endanger life or health.''

The Independent Offices Appropriations Act (31 U.S.C. 9701), the Omnibus Appropriations Bill (Pub. L. 104–133, 110 Stat. 1321, April 26, 1996), and the Office of Management and Budget Circular A–25, authorize Federal agencies to recover the full cost of services that provide special benefits. Under the Department of the Interior's (DOI) implementing policy, BOEM is required to charge the full cost for services that provide special benefits or privileges to an identifiable non-Federal recipient above and beyond those that accrue to the public at large. Approval of transfer of a lease or interest are subject to cost recovery, and BOEM regulations specify the filing fee for these transfer applications.

BOEM uses the information collected under these regulations to ensure that operations in the OCS are carried out in a safe and environmentally sound manner, do not interfere with the rights of other users in the OCS, and balance the protection and development of OCS resources. Specifically, BOEM uses the information collected to:

- Determine the capability of a well to produce oil or gas in paying quantities or to determine the possible need for additional wells resulting in minimum royalty status on a lease.
- Provide lessees/operators greater flexibility to comply with regulatory requirements through approval of alternative equipment or procedures and departures if they demonstrate equal or better compliance with the appropriate performance standards.
- Ensure that subsurface storage of natural gas does not unduly interfere with development and production operations under existing leases.
- Determine if an application for right-of-use and easement complies with the OCS Lands Act, other applicable laws, and BOEM regulations; and does not unreasonably interfere with the operations of any other lessee.
- Provide for orderly development of oil and gas resources while protecting the environment.
- Determine the appropriateness of disqualification of a lessee/operator based on performance.

• Approve requests to cancel leases and ascertain if/when the Secretary may cancel leases.

• Ensure the protection of any discovered archaeological resources.

• Form BOEM–0127, Sensitive Reservoir Information Report, is used to regulate production rates from sensitive reservoirs. BOEM engineers and geologists use the information for rate control and reservoir studies. The form requests general information about the reservoir and the company, volumetric data, and fluid analysis and production data.

• Form BOEM–0140, Bottomhole Pressure Survey Report, is used to manage reservoirs in our efforts to conserve natural resources, prevent waste, and protect correlative rights, including the Government's royalty interest. The form requests information about the well and operator; test data information such as shut-in time, bottomhole temperature, kelly bushing elevation; and bottomhole pressure points that consist of measured depth(s), true vertical depth(s), pressure(s), and pressure gradient(s).

• Form BOEM–1123, Designation of Operator, records the designation of an operator authorized to act on behalf of the lessee/operating rights owner and to fulfill their obligations under the OCS Lands Act and implementing regulations, or to record the local agent empowered to receive notices and comply with regulatory orders issued. This form requires the respondent to submit general information such as lease number, name, address, company number of designated operator, and signature of the authorized representative of the lessee.

• Form BOEM–1832, Notification of Incidents of Non-Compliance (INC), is used to determine that respondents have corrected any Incidents of Non-Compliance identified during compliance reviews. The BOEM issues this form to the operator and the operator then corrects the INC(s), signs and returns the form to BOEM.

BOEM protects proprietary information in accordance with the Freedom of Information Act (5 U.S.C. 552) and the Department of the Interior's implementing regulations (43 CFR part 2), and under applicable sections of 30 CFR parts 550 and 552 promulgated pursuant to Outer Continental Shelf Lands Act (OCSLA) at 43 U.S.C. 1352(c).

Title of Collection: 30 CFR 550, Subpart A, General, and Subpart K, Oil and Gas Production.

OMB Control Number: 1010–0114.

Form Number:

• BOEM–0127, Sensitive Reservoir Information Report;

• BOEM–0140, Bottomhole Pressure Survey Report;

• BOEM–1123, Designation of Operator; and

• BOEM–1832, Notification of Incident(s) of Noncompliance.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Oil and gas and sulphur lessees/operators.

Total Estimated Number of Annual Responses: 5,302 responses.

Total Estimated Number of Annual Burden Hours: 18,323 hours.

Respondent's Obligation: Mandatory.

Frequency of Collection: On occasion, monthly.

Total Estimated Annual Non-hour Burden Cost: $165,492.

Estimated Reporting and Recordkeeping Hour Burden: The current annual burden hours for this collection are 30,635 hours. BOEM proposes to reduce annual burden hours to 18,323 hours, which is a decrease of 12,312 annual burden hours. The annual burden hour reduction is related to adjustments in 30 CFR 550 subpart K.

• For 30 CFR 550.1153, the regions re-evaluated the annual burden hours for static bottomhole pressure surveys. The average hour burden based on industry feedback is 15 hours instead of 14 hours. Also, BOEM on average reviews approximately 400 Bottomhole Pressure Surveys per year instead of 1,161 surveys. The 2017 OMB approved annual burden hours included 3 years of data instead of annual data. Therefore, BOEM is reducing the number of respondents to correct this error. The annual burden hours for 30 CFR 55.1153 is decreasing from 16,254 hours to 6,000 hours (−10,254 hours).

• For 30 CFR 550.1153(d), BOEM is increasing the hour burden from 1 to 5 based on industry feedback. BOEM is currently reviewing fewer departures annually than previously recorded (decreasing number of departures from 200 to 100). With the increase in hour burdens and the decrease in respondents, the overall annual burden hour for 30 CFR 550.1153(d) will increase to 500 hours (+300 hours).

• For 30 CFR 550.1154 and 550.1167, BOEM is changing the hour burden from 1 to 5 hours based on industry feedback. However, the number of respondents is dropping by 2/3rds (from 15 requests to 5 requests). Therefore, the annual burden hour change will increase slightly to from 15 hours to 25 hours (+10 hours).

• For 30 CFR 550.1155, based on outreach input, BOEM is increasing the hour burden for form BOEM–0127 from 3 hours to 6 hours. However, BOEM previously overestimated the number of forms submitted. BOEM is reducing the number of forms collected from 2,012 to 610 forms; therefore, the overall annual burden hours will decrease from 6,036 hours to 3,660 hours (−2,376 hours).

• For 30 CFR 550.1153–1167, BOEM is increasing the respondents from 2 to 10 requests. With changes in technology, operators are installing permanent downhole gauges in wells. These gauges show continuous readings of the downhole pressure. Operators are submitting this type of data, as alternative compliance, to meet the bottomhole pressure requirement, so BOEM has seen a slight increase in respondents. The increase in respondents has caused the annual burden hours to increase from 2 to 10 hours (+8 hours).

The following table details the individual components and respective hour burden estimates of this ICR.

BURDEN BREAKDOWN

Citation 30 CFR 550 Subpart A and related forms/NTLs	Reporting or recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
		Non-hour cost burdens		
Authority and Definitions of Terms				
104; 181; Form BOEM–1832.	Appeal orders or decisions; appeal INCs; request hearing due to cancellation of lease.	Exempt under 5 CFR 1320.4(a)(2), (c)		0

BURDEN BREAKDOWN—Continued

Citation 30 CFR 550 Subpart A and related forms/NTLs	Reporting or recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
		Non-hour cost burdens		
Performance Standards				
115; 116	Request determination of well producibility; make available or submit data and information; notify BOEM of test.	5	90 responses	450
119	Apply for subsurface storage of gas; sign storage agreement.	10	3 applications	30
Subtotal			93 responses	480
Cost Recovery Fees				
125; 126; 140	Cost Recovery Fees; confirmation receipt etc.; verbal approvals and written request to follow. Includes request for refunds.	Cost Recovery Fees and related items are covered individually throughout this subpart		0
Designation of Operator				
143	Report change of name, address, etc	Not considered information collection under 5 CFR 1320.3(h)(1)		0
143(a–c); 144; Form BOEM–1123.	Submit designation of operator (Form BOEM–1123—form takes 30 minutes); report updates; notice of termination; submit designation of agent. Request exception. NO FEE.	1	2,584 forms	2,584
143(a–d); 144; Form BOEM–1123.	Change designation of operator (Form BOEM–1123—form takes 30 minutes); report updates; notice of termination; submit designation of agent; include pay.gov confirmation receipt. Request exception. SERVICE FEE.	1	930 forms	930
		$175 fee × 930 = $162,750		
186(a)(3)	Apply for user account in TIMS (electronic/digital form submittals).	Not considered information collection under 5 CFR 1320.3(h)(1)		0
Subtotal			3,514 responses	3,514
			$162,750 non-hour cost burden	
Compliance				
101; 135; 136; Form BOEM–1832.	Submit response and required information for INC, probation, or revocation of operating status. Notify when violations corrected.	2	94 submissions	188
	Request waiver of 14-day response time or reconsideration.	1	1	1
135; 136	Request reimbursement for services provided to BOEM representatives during reviews; comment.	1.5	2 requests	3
Subtotal			97 responses	192
Special Types of Approval				
125(c); 140	Request various oral approvals not specifically covered elsewhere in regulatory requirements.	1	100 requests	100
141; 101–199	Request approval to use new or alternative procedures; submit required information.	20	100 requests	2,000
142; 101–199	Request approval of departure from operating requirements not specifically covered elsewhere in regulatory requirements; submit required information.	2.5	100 requests	250

BURDEN BREAKDOWN—Continued

Citation 30 CFR 550 Subpart A and related forms/NTLs	Reporting or recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
		Non-hour cost burdens		
Subtotal			300 responses	2,350
Right-of-Use and Easement				
160; 161; 123	OCS lessees: Apply for new or modified right-of-use and easement to construct and maintain off-lease platforms, artificial islands, and installations and other devices; include notifications and submitting required information.	9	26 applications	234
160(c)	Establish a Company File for qualification; submit updated information, submit qualifications for lessee/bidder, request exception.	Burden covered under 30 CFR 556 (1010–0006)		0
160; 165; 123	State lessees: Apply for new or modified right-of-use and easement to construct and maintain off-lease platforms, artificial islands, and installations and other devices; include pay.gov confirmation and notifications.	5	1 application	5
		$2,742 state lease fee × 1 = $2,742		
166	State lessees: Furnish surety bond; additional security if required.	Burden covered under 30 CFR 556 (1010–0006)		0
Subtotal			27 responses	239
			$2,742 non-hour cost burden	
Primary Lease Requirements, Lease Term Extensions, and Lease Cancellations				
181(d); 182(b), 183(a)(b)	Request termination of suspension, cancellation of lease, lesser lease term (no requests in recent years for termination/cancellation of a lease; minimal burden).	20	1 request	20
182; 183, 185; 194	Various references to submitting new, revised, or modified exploration plan, development/production plan, or development operations coordination document, and related surveys/reports.	Burden covered under 30 CFR 550, Subpart B (1010–0151)		0
184	Request compensation for lease cancellation mandated by the OCS Lands Act (no qualified lease cancellations in many years; minimal burden).	50	1 request	50
Subtotal			2 responses	70
Information and Reporting Requirements				
186(a)	Apply to receive administrative entitlements to eWell/TIMS system for electronic submissions.	Not considered IC under 5 CFR 1320.3 (h)(1)		0
186; NTL 2015–N01	Submit information, reports, and copies as BOEM requires (as related to worst case discharge and blowout scenarios).	10	125	1,250
135; 136	Report apparent violations or non-compliance	1.5	2 reports	3
194; NTL 2011–JOINT–G01.	Report archaeological discoveries. Submit archaeological and follow-up reports and additional information.	2	6 reports	12
194; NTL 2011–JOINT–G01.	Request departures from conducting archaeological resources surveys and/or submitting reports in GOMR.	1	2 requests	2
194	Submit ancillary surveys/investigations reports, as required.	Burden covered under 30 CFR 550 Subpart B (1010–0151)		0

BURDEN BREAKDOWN—Continued

Citation 30 CFR 550 Subpart A and related forms/NTLs	Reporting or recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
		Non-hour cost burdens		
196	Submit data/information for G&G activity and request reimbursement.	Burden covered under 30 CFR 551 (1010–0048)		0
197(b)(2)	Demonstrate release of G&G data would unduly damage competitive position.	1	1	1
197(c)	Submit confidentiality agreement	1	1	1
Subtotal			137 responses	1,269 hours
Recordkeeping				
135; 136	During reviews, make records available as requested by inspectors.	2	7 reviews	14
Subtotal			7 responses	14

Citation 30 CFR 550 subpart K and related forms	Well surveys and classifying reservoirs	Hour burden	Average number of annual responses	Annual burden hours
1153	Conduct static bottomhole pressure survey; submit Form BOEM–0140 (Bottomhole Pressure Survey Report).	15	400 surveys	6,000
1153(d)	Submit justification, information, and Form BOEM–0140, to request a departure from requirement to run a static bottomhole pressure survey.	5	100 survey departures	500
1154; 1167	Submit request and supporting information to reclassify reservoir.	5	5 requests	25
1155; 1165(b); 1166; 1167.	Submit Form BOEM–0127 (Sensitive Reservoir Information Report) and supporting information/revisions (within 45 days after the beginning of production, discovering that the reservoir is sensitive, the reservoir is classified as sensitive, or when reservoir parameters are revised. SRI's must be submitted annually). AK Region: submit BOEM–0127 and request MER.	6	610 forms	3,660
1153–1167	Request general departure or alternative compliance requests not specificallycovered elsewhere in regulatory requirements.	1	10	10
1165	Submit proposed plan for enhanced recovery operations to BSEE.	Burden covered under BSEE 30 CFR 250 (1014–0019)		0
Subtotal			1,125 responses	10,195
Total Burden			5,302 Responses	18,323
			$165,492 Non-Hour Cost Burdens	

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Deanna Meyer-Pietruszka,

Chief, Office of Policy, Regulation, and Analysis.

[FR Doc. 2019–19314 Filed 9–6–19; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Amended Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade

Commission has received an amended complaint entitled *Certain Collapsible and Portable Furniture, DN 3404;* the Commission is soliciting comments on any public interest issues raised by the amended complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the amended complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received an amended complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of GCI Outdoor, Inc. on August 29, 2019. The original complaint was filed on August 16, 2019 and a notice of receipt of complaint; solicitation of comments relating to the public interest published in the **Federal Register** on August 22, 2019. The amended complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain collapsible and portable furniture. The amended complaint names as respondents: Denovo Brands, LLC of Bentonville, AR; Zhenli (Zhangzhou) Industrial Co., Ltd. of China; Fujian Zenithen Consumer Products Co., Ltd. of China; Zenithen Hong Kong Ltd. of Hong Kong; Zenithen USA LLC of Upland, CA; Westfield Outdoor, Inc. d/b/a Westfield Outdoors of Indianapolis, IN; MacSports Inc. of La Verne, CA; and Meike (Qingdao) Leisure Products Co., Ltd. of China. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the amended complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3404'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

Issued: August 30, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–19206 Filed 9–6–19; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Pouch-Type Battery Cells, Battery Modules, and Battery Packs, Components Thereof, and Products Containing the Same, DN 3411;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of SK Innovation Co., Ltd. and SK Battery America, Inc. on September 3, 2019. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain pouch-type battery cells, battery modules, and battery packs, components thereof, and products containing the same. The complaint names as respondents: LG Chem, Ltd. of Korea; and LG Chem Michigan, Inc. of Holland, MI. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3411'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: September 3, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–19339 Filed 9–6–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number: 1103–0117]

Agency Information Collection Activities; Proposed eCollection; eComments Requested; Extension of a Currently Approved Collection; Departmental Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Department of Justice.

ACTION: 60-Day notice.

SUMMARY: As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, Department of Justice will be submitting a Generic Information Collection Request (Generic ICR): ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' to OMB for approval under the Paperwork Reduction Act (PRA).

DATES: The purpose of this notice is to allow 60 days for public comment until November 8, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Melody Braswell, Department Clearance Officer, *melody.braswell2@usdoj.gov*; or the DOJ Clearance Officer at 202–307–0890.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Collection

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Below we provide the Department of Justice's projected average estimates for the next three years:

Current Action: Extension.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Average Expected Annual Number of Activities: 42.

Average Number of Respondents per Activity: 51,500.

Annual Responses: 309,000.

Frequency of Response: Once per request.

Average Minutes per Response: 30 min.

Burden Hours: 99,847.

Federal Government Cost: $176,925.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number. If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405B, Washington, DC 20530.

Dated: September 4, 2019.

Melody D. Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–19383 Filed 9–6–19; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Jobs for Veterans State Grants Reports

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Veterans' Employment and Training Service (VETS) sponsored information collection request (ICR) reinstatement titled, ''Jobs for Veterans State Grants

Reports,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before October 9, 2019.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201906-1293-001* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–VETS, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for a reinstatement to the Jobs for Veterans State Grants Reports. The DOL Veterans' Employment and Training Service (VETS) administers funds for the multi-year Jobs for Veterans' State Grants (JVSG) to each State, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam on an annual basis on a fiscal year cycle. These forms are used to facilitate the identification of required programmatic and financial data provided by States requesting and expending funds and for monitoring the grants, making quarterly adjustments and reporting results to Congress. The use of program-specific standard formats helps to ensure that requested data can be provided in a uniform way, reporting burdens are minimized, the impact of collection requirements on respondents are properly assessed, collection instruments are clearly understood by respondents, and the information is easily consolidated for posting in accordance with statutory requirements. *See* 38 U.S.C. 4102A.

This information collection request allows the agency to use a revised version of the same information collection under the OMB Control Number provided with the original approval and has been classified as a reinstatement because a previously approved collection has expired or the agency had subsequently decided to discontinue the collection. This request allows the agency to use a revised version of the same information collection under the OMB Control Number provided with the original approval.

This proposed information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB under the PRA approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional substantive information, see the related notice published in the **Federal Register** on April 5, 2019 (84 FR 13723).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty-(30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1293–0009. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–VETS.

Title of Collection: Jobs for Veterans State Grants Reports.

OMB Control Number: 1293–0009.

Affected Public: State, Local, and Tribal governments.

Total Estimated Number of Respondents: 54.

Total Estimated Number of Responses: 8,540.

Total Estimated Annual Time Burden: 17,053 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: September 3, 2019.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2019–19355 Filed 9–6–19; 8:45 am]

BILLING CODE 4510–79–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0028]

Personal Protective Equipment for General Industry; Extension for the Office of Management and Budget's (OMB) Approval of the Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits comments concerning this proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the Personal Protective Equipment Standard for General Industry.

DATES: Comments must be submitted (postmarked, sent, or received) by November 8, 2019.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2009–0028, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the OSHA Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and OSHA docket number for the ICR (OSHA–2009–0028) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may contact Theda Kenney at the phone number below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Seleda Perryman, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of a continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)).

This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

Subpart I specifies several paperwork requirements. The following describes the information collection requirements in subpart I and addresses who will use the information.

Hazard Assessment and Verification (§ 1910.132(d) & (g))

Paragraph 1910.132(d)(1) and the Personal Fall Protection standard require that employers perform a hazard assessment of the workplace to determine whether hazards are present, or likely to be present, that make the use of PPE necessary.[1] Where such hazards are present, employers must select and have each affected worker use PPE that protects them from the identified hazards (§ 1910.132(d)(1)(i)), and communicate PPE selection decisions to each affected worker (§ 1910.132(d)(1)(ii)).

Paragraph 1910.132(d)(2) requires that employers certify in writing they have performed the required hazard assessment. The certification must include the date, the name of the person certifying that the hazard assessment was conducted, and identification of the workplace evaluated (area or location). The Personal Fall Protection standard expands the hazard assessment requirement to personal fall protection systems (§ 1910.132(g)).

Conducting a PPE hazard assessment ensures that potential workplace hazards necessitating PPE use have been identified and that the PPE selected is appropriate for those hazards and the affected workers. Communicating information on PPE selection decisions to affected workers ensures they are aware that the PPE selected will protect them from the hazards that the assessment identified. The certification of the hazard assessment verifies that employers have conducted the required assessment.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend approval of the information collection requirements contained in the Personal Protective Equipment Standard for General Industry (29 CFR part 1910, subpart I). OSHA is proposing to decrease the burden hours in the currently approved information collection request from 3,745,218 hours to 3,673,168, a total adjustment decrease of 72,050 hours. This decrease is due to updated data showing a decrease in the number of establishments using fall protection systems by the standard. The agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Personal Protective Equipment for General Industry (PPE) (29 CFR part 1910, subpart I).

OMB Number: 1218–0205.

Affected Public: Business or other for-profits; Federal Government; State, Local, or Tribal Government.

Number of Respondents: 3,039,775.

Frequency of Response: On occasion.

Average Time per Response: Various.

Estimated Total Burden Hours: 3,673,168.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA–2009–0028). You may supplement electronic submissions by uploading document

[1] Section 1910.132(g) specifies that the hazard assessment (§ 1910.132(d)) requirements only apply to PPE for the eyes, face, head, feet, and hands. The final rule revised § 1910.132(g) to also apply the hazard assessment requirement to personal fall protection systems.

files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on September 3, 2019.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2019–19356 Filed 9–6–19; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request; NCUA Personnel Security Processing Form

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comment.

SUMMARY: The National Credit Union Administration (NCUA), as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the following extension of a currently approved collection, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments should be received on or before October 9, 2019 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for NCUA, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) NCUA PRA Clearance Officer, 1775 Duke Street, Suite 5080, Alexandria, VA 22314, or email at *PRAComments@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by contacting Mackie Malaka at (703) 548–2704, emailing *PRAComments@ncua.gov,* or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0201.

Title: NCUA Personnel Security Processing Forms.

Form: NCUA 1092, 1093, and 1093C.

Type of Review: Extension of a currently approved collection.

Abstract: Title 5, Code of Federal Regulations, Part 731 (suitability), Executive Order (E.O.) 13764 (contractor fitness), E.O. 12968/SEAD 4 (classified access), and Homeland Security Directive–12 (badging) requires all federal and contractor employees to undergo a background investigation when seeking employment with an agency. The NCUA Personnel Security Processing Forms (*Personnel Security Data Form-Contractor, Personnel Security Data Form-Employee and the Authorization for Release of Credit Information*) are used to collect information necessary for applying the government-established suitability/fitness criteria on employees before they can begin employment with or perform contractual services for the NCUA. It may be also required should a contract employee be moved to a new contract work. The background investigation process culminates in an adjudicative determination on whether or not these employees are fit to perform services on behalf of the agency.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 200.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on September 4, 2019.

Dated: September 4, 2019.

Mackie I. Malaka,

NCUA PRA Clearance Officer.

[FR Doc. 2019–19368 Filed 9–6–19; 8:45 am]

BILLING CODE 7535–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2019–189 and CP2019–212; MC2019–190 and CP2019–213]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 11, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or

removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2019–189 and CP2019–212; *Filing Title:* USPS Request to Add Priority Mail Contract 547 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 3, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* September 11, 2019.

2. *Docket No(s).:* MC2019–190 and CP2019–213; *Filing Title:* USPS Request to Add Priority Mail Express & Priority Mail Contract 98 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 3, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* September 11, 2019.

This Notice will be published in the **Federal Register**.

Darcie S. Tokioka,

Acting Secretary.

[FR Doc. 2019–19353 Filed 9–6–19; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* September 9, 2019.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 3, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express & Priority Mail Contract 98 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–190, CP2019–213.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–19330 Filed 9–6–19; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86858; File No. SR–LCH SA–2019–006]

Self-Regulatory Organizations; LCH SA; Notice of Filing of Proposed Rule Change Relating to Extension of Weekly Backloading Cycle to Index Swaptions

September 3, 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 20, 2019, Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared primarily by LCH SA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), is proposing to amend its (i) CDS Clearing Rule Book (''Rule Book'') and (ii) CDS Clearing Procedures (''Procedures'') (collectively the ''CDS Clearing Rules'') to make conforming, clarifying, and clean-up changes intended to: (1) Extend the weekly backloading process to Index Swaptions; and (2) amend the structure of the documentation in respect of the backloading process. Capitalized terms not defined or modified in this rule proposal will have the same meaning as in LCH SA's existing Rule Book or Procedures.

The text of the proposed rule change has been annexed as Exhibit 5.[3]

The implementation of the updated Rule Book and Procedures will be contingent on LCH SA's receipt of all necessary regulatory approvals.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, LCH SA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. LCH SA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

1. Purpose

LCH SA is proposing to amend its CDS Clearing Rules to allow clearing

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] All capitalized terms not defined herein have the same definition as the Rule Book, Supplement or Procedures, as applicable.

process of Index Swaptions through the CDSClear Weekly Backloading Cycle, in addition to the CDS that are already in the scope of this process today.

Further, this proposed rule change will also amend the CDS Clearing Rules in order to review the structure of the rule book documentation in respect of the Weekly Backloading Cycle and the Daily Backloading Cycle and make consistency changes.

(a) Amendments To Extend the Weekly Backloading Cycle to Index Swaptions

The updated CDS Clearing Rules will permit Clearing Members to submit Index Swaptions to LCH SA for clearing through the Weekly Backloading Cycle. For the purpose of this extension, existing defined terms and provisions in the Rule Book and Sections 4 and 5 of the Procedures have been amended as described below.

i. Rule Book

With respect to the Rule Book, LCH SA proposes to make amendments to the existing defined term ''Weekly Backloading Transaction'' contained within Title I, Chapter 1, Section 1.1.1. by adding a reference to ''Index Swaption''.

ii. Procedures

(A) Section 4

Section 4 of the Procedures will be updated to make the relevant eligibility requirements applicable to Index Swaptions to be submitted to LCH SA for clearing through the Weekly Backloading Cycle where necessary.

Thus, the reference to an ''Index Swaption Intraday Transaction'' in Section 4.1(c)(i)(V) will be replaced by a reference to an ''Index Swaption''. In addition, the reference to an ''Index Swaption Intraday Transaction'' in Section 4.1(c)(iii)(C) will be replaced by a reference to an ''Index Swaption that is an Index Swaption Intraday Transaction or a Weekly Backloading Transaction''.

(B) Section 5

LCH SA proposes to update Section 5 of the Procedures by adding a reference to ''Index Swaptions'' in Section 5.2(b) so that Index Swaptions are eligible for the Weekly Backloading Cycle.

(b) Technical Amendments

The amendments to the Rule Book and Procedures also contain typographical corrections and changes made for consistency purpose. Specifically, information on the Daily Backloading Cycle and the Weekly Backloading Cycle will be moved from the Rule Book and Section 5 of the Procedures to new Clearing Notices (*i.e.* a Clearing Notice named ''Daily Backloading Cycle'' and a Clearing Notice named ''Weekly Backloading Cycle'') for consistency purpose as this is operational information that does not need to be part of the CDS Clearing Rules. No amendment will be made to the content of the provisions moved to these new Clearing Notices.

Therefore, Section 5.2(b) and (c) of the Procedures will refer to a Clearing Notice and the timetable applicable to each of the Daily Backloading Cycle and Weekly Backloading Cycle is proposed to be removed from these paragraphs. In the Rule Book, defined terms of ''Eligible Weekly Backloading Transaction'' and ''Irrevocable Weekly Backloading Transaction'' will therefore refer to a Clearing Notice instead of Section 5 of the Procedures, as well as Sections 3.1.1 and 3.1.2 of the Rule Book.

In addition, the definitions of ''Weekly Backloading Start Day'' and ''Weekly Backloading Novation Day'' in the Rule Book are proposed to be amended in order to make a general reference to a day as determined by LCH SA in accordance with Article 3.1.1.10 of the Rule Book as these days will be provided for in the new Clearing Notice named ''Weekly Backloading Cycle''. Article 3.1.1.10 will be amended to remove the publication date of this Clearing Notice as the provisional calendar, which specifies the Weekly Backloading Cycle will not change each year.

Finally, typographical corrections will be made to the definition of ''Converting Clearing Member'' in the Rule Book and Section 4.1(c)(vii)(B) of the Procedures. The reference to Section 3 in Article 3.1.1.1 of the Rule Book is also proposed to be deleted as it is redundant with the provisions of the previous sentence of this Article.

2. Statutory Basis.

As more discussed below, LCH SA believes that the Proposed Rule Change is consistent with the requirements of Section 17A of the Securities Exchange Act of 1934 [4] (the ''Exchange Act'') and the regulations thereunder, including the standards under Exchange Act Rule 17Ad–22.[5]

Section 17A(b)(3)(F) of the Exchange Act [6] requires, among other things, that the rules of a 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.

By offering Clearing Members the possibility to submit Index Swaptions to LCH SA for clearing through the CDSClear Weekly Backloading Cycle, the Proposed Rule Change will extend the backloading to Index Swaptions and therefore permit cross instruments netting that can yield more cost effective margins and would promote the clearance process of credit derivatives transactions so that LCH SA believes that the proposed amendments are consistent with the requirements of Section 17A of the Exchange Act.[7]

These proposed rule changes will also provide additional security to members who will choose to perform intraday clearing as it will enable the capture of trades that would normally be sent as part of intraday clearing but that are sent for clearing beyond the current one day deadline. This, therefore, will be consistent and align with the requirements of Exchange Act Rule 17Ad–22(e)(8) which requires each covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to ''define the point at which settlement is final to be no later than the end of the day on which the payment or obligation is due and, where necessary or appropriate, intraday or in real time.'' [8]

B. Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[9] LCH SA does not believe that the proposed rule change would impose burdens on competition that are not necessary or appropriate in furtherance of the purposes of the Act.

LCH SA is only extending the CDSClear weekly Backloading cycle to Index Swaptions.

Specifically, the proposed rule changes would apply equally to all Clearing Members and would generally improve the ability of such market participants to engage in cleared transactions and clearing services.

Therefore, LCH SA does not believe that the proposed rule change would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

[4] 15 U.S.C. 78q–1.

[5] 17 CFR 240.17Ad–22.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1.

[8] 17 CFR 240.17Ad–22(e)(8).

[9] 15 U.S.C. 78q–1(b)(3)(I).

C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. LCH SA will notify the Commission of any written comments received by LCH SA.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 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–LCH SA–2019–006 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–LCH SA–2019–006. 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 LCH SA and on LCH SA's website at: *https://www.lch.com/resources/rules-and-regulations/proposed-rule-changes-0*. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–LCH SA–2019–006 and should be submitted on or before September 30, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–19335 Filed 9–6–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86854; File No. SR–IEX–2019–08]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Its Fee Schedule To Establish Fees for the Execution of Retail and Retail Liquidity Provider Orders and To Eliminate Fee Code N From the Fee Schedule

September 3, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on August 22, 2019, Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act,[4] and Rule 19b–4 thereunder,[5] IEX is filing with the Commission a proposed rule change to modify its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to establish fees for the execution of Retail and Retail Liquidity Provider orders and to eliminate Fee Code N from the Fee Schedule. Changes to the Fee Schedule pursuant to this proposal are effective upon filing,[6] and will be implemented as described herein.

The text of the proposed rule change is available at the Exchange's website at *www.iextrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to establish fees for the execution of Retail and Retail Liquidity Provider orders and to eliminate Fee Code N from the Fee Schedule.

Retail Price Improvement Program Fees

On August 9, 2019, the Commission approved an IEX rule filing to establish a Retail Price Improvement Program (''Retail Program'').[7] IEX now proposes

---

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] *See* Securities Exchange Act Release No. 86619 (August 9, 2019), 84 FR 41769 (August 15, 2019) (SR–IEX–2019–05) (order approving the IEX Retail Program).

to adopt fees for the launch of its Retail Program.

The Exchange does not propose to charge any fees for the execution of a Retail order [8] submitted to IEX by a Member approved as a Retail Member Organization (''RMO'').[9] This pricing is referred to as the ''Retail Order Fee'' on the IEX Fee Schedule with a Fee Code Modifier of R [10] to be provided by the Exchange on execution reports. In addition, the Exchange proposes to add a new footnote 2 to the IEX Fee Schedule (and renumber current footnote 2 to be footnote 3) to specify that Fee Code R applies only to a Retail order submitted by an IEX Retail Member Organization that (i) satisfies the criteria set forth in IEX Rules 11.190(b)(15) and 11.232(a)(1) and (ii) is a Discretionary Peg order or Midpoint Peg order with a Time-in-Force of IOC or FOK only eligible to trade at the Midpoint Price.

In addition, the Exchange does not propose to charge any fees for the execution of a Retail Liquidity Provider (''RLP'') [11] order. This pricing is referred to as the ''Retail Liquidity Provider Order Fee'' on the IEX Fee Schedule with a Fee Code Modifier of A [12] to be provided by the Exchange on execution reports. The Exchange is not proposing any changes to the IEX Fee Schedule with respect to orders other than RLP orders that execute against a Retail Order.

The Exchange also proposes conforming changes to the section of the IEX Fee Schedule entitled ''Fee Code Combinations and Associated Fees'' to reflect the proposed fees for execution of Retail orders and RLP orders and new Fee Code Modifiers R and A.[13] The following describes the proposed Fee Code Combinations and Associated Fees:

Fee codes	Description	Fee
IR	Retail order removes non-displayed liquidity	FREE.
IA	Retail Liquidity Provider order adds non-displayed liquidity to a Retail order	FREE.
LR	Retail order removes displayed liquidity	FREE.
ISR	Retail order removes non-displayed liquidity provided by such Member	FREE.
ISA	Retail Liquidity Provider order adds non-displayed liquidity to a Retail order provided by such Member	FREE.
IQR [14]	Retail order removes non-displayed liquidity during periods of quote instability	FREE.
LSR	Retail order removes displayed liquidity provided by such Member	FREE.
LQR [15]	Retail order removes displayed liquidity during periods of quote instability	FREE
ISQR [16]	Retail order removes non-displayed liquidity provided by such Member during periods of quote instability	FREE.
LSQR [17]	Retail order removes displayed liquidity provided by such Member during periods of quote instability	FREE.

Implementation of Retail Price Improvement Program Fees

As set forthin the Retail Program filing, IEX will implement the Retail Program within 90 days of approval and provide at least ten (10) days' notice to Members and market participants of the implementation timeline.[18] Thus, IEX will issue a trading alert at least 10 days before the launch of the Retail Program, informing Members both of the Retail Program's imminent launch and of the new Fee Codes and associated fees set forth in this filing.

Elimination of Fee Code N

IEX is also proposing to delete Fee Code Modifier N from the IEX Fee Schedule. On May 1, 2018, the Exchange established the use of Fee Code Modifier N as an ''Additional Fee Code'' in connection with a reduction of the applicable fee for certain executions that removed non-displayed liquidity with a spread-crossing eligible order.[19] Fee Code Modifier N (and related Fee Code combinations) was added to denote such executions and provided to Members on execution reports. Thereafter, effective August 1, 2018, IEX reverted to the prior fee of $0.0009 per share for such executions,[20] but did not eliminate the use of Fee Code Modifier N and related Fee Code combinations, which continue to be provided to Members on execution reports, notwithstanding that they no longer impact applicable execution fees because orders that remove non-displayed liquidity with a spread-crossing eligible order are not subject to a different fee than is otherwise assessed because the order was spread-crossing eligible. Thus, Fee Code Modifier N and related Fee Code combinations are duplicative of other Fee Code Modifiers and Fee Code combinations. Accordingly, IEX proposes to delete Fee Code Modifier N and Fee Code combinations that include Fee Code Modifier N from the IEX Fee Schedule. The following describes the basis for each deletion:

- Fee Code Modifier N describes execution of an order that removes liquidity with a spread-crossing eligible order, specifying that the fee for such an execution is $0.0009 per share. However, as explained in the Fee Schedule, because Fee Code Modifier ''N'' is an ''Additional Fee Code, the rates listed in the Fee Codes and Associated Fees table will apply.'' Therefore, Fee Code Modifier N is never the only Fee Code provided to Members on execution reports, and will only be provided to Members on execution reports in the following eight fee code combinations.
- Fee Code combination IN describes execution of an order that removes non-displayed liquidity with a spread-crossing eligible order, specifying that the fee for such an execution is $0.0009 per share. Such executions are also described by Fee Code I which describes an execution of an order that adds or removes non-displayed liquidity and is also subject to a fee of $0.0009 per share. Consequently, Fee Code

[8] *See* IEX Rule 11.232(a)(2).

[9] *See* IEX Rule 11.232(a)(1).

[10] Fee Code Modifier R appears in the ''Additional Fee Codes'' section of the Fee Schedule.

[11] *See* IEX Rule 11.232(a)(3).

[12] Fee Code Modifier A appears in the ''Additional Fee Codes'' section of the Fee Schedule.

[13] The proposed new Fee Code combinations, as well as Fee Code modifiers R and A, will be provided to Members on execution reports.

[14] Fee Code combinations that include Fee Code Modifier Q are subject to Footnote 1 of the IEX Fee Schedule which provides as follows:

Crumbling Quote Remove Fee: Executions with Fee Code Q that exceed the CQRF Threshold are subject to the Crumbling Quote Remove Fee identified in the Fee Code Modifiers table. Executions with Fee Code Q that do not exceed the CQRF Threshold are subject to the fees identified in the Fee Codes and Associated Fees table.

[15] *See supra* note 14.

[16] *See supra* note 14.

[17] *See supra* note 14.

[18] *See* Securities Exchange Act Release No. 86241 (June 28, 2019) 84 FR 32238 (July 5, 2019) (SR–IEX–2019–05).

[19] *See* Securities Exchange Act Release No. 83147 (May 1, 2018), 83 FR 20118 (May 7, 2018) (SR–IEX–2018–09).

[20] *See* Securities Exchange Act Release No. 83820 (August 10, 2018), 83 FR 40800 (August 16, 2018) (SR–IEX–2018–17).

combination IN is duplicative of Fee Code I.

• Fee Code combination LN describes execution of an order that removes displayed liquidity with a spread-crossing eligible order, specifying that the fee for such execution is $0.0003 per share. Such executions are also described by Fee Code L which describes an execution of an order that adds or removes displayed liquidity and is also subject to a fee of $0.0003 per share. Consequently, Fee Code combination LN is duplicative of Fee Code L.

• Fee Code combination ISN describes execution of an order that removes non-displayed liquidity provided by such Member with a spread-crossing eligible order, specifying that such executions are free. Such executions are also described by Fee Code combination IS which describes execution of an order that executes against resting non-displayed liquidity provided by such Member and is also free. Consequently, Fee Code combination ISN is duplicative of Fee Code Combination IS.

• Fee Code combination IQN describes execution of an order that removes non-displayed liquidity during periods of quote instability with a spread-crossing eligible order, specifying that the fee for such execution is $0.0009 per share. Such executions are also described by Fee Code combination IQ which describes execution of an order that removes non-displayed liquidity during periods of quote instability and is also subject to a fee of $0.0009 per share. Consequently, Fee Code combination IQN is duplicative of Fee Code Combination IQ.

• Fee Code combination LSN describes execution of an order that removes displayed liquidity provided by such Member with a spread-crossing eligible order, specifying that such executions are free. Such executions are also described by Fee Code combination LS which describes execution of an order against resting displayed liquidity provided by such Member and is also free. Consequently, Fee Code combination LSN is duplicative of Fee Code combination LS.

• Fee Code combination LQN describes execution of an order that removes displayed liquidity during periods of quote instability with a spread-crossing eligible order, specifying that the fee for such an execution is $0.0003 per share. Such executions are also described by Fee Code LQ which describes an execution of an order that removes displayed liquidity during periods of quote instability and is also subject to a fee of $0.0003 per share. Consequently, Fee Code combination LQN is duplicative of Fee Code LQ.

• Fee Code combination ISQN describes execution of an order that removes non-displayed liquidity provided by such Member during periods of quote instability with a spread-crossing eligible order, specifying that such executions are free. Such executions are also described by Fee Code combination ISQ which describes execution of an order that removes non-displayed liquidity provided by such Member during periods of quote instability and is also free. Consequently, Fee Code combination ISQN is duplicative of Fee Code combination ISQ.

• Fee Code combination LSQN describes execution of an order that displayed liquidity provided by such Member during periods of quote instability with a spread-crossing eligible order, specifying that such executions are free. Such executions are also described by Fee Code combination LSQ which describes execution of an order that removes displayed liquidity provided by such Member during periods of quote instability and is also free. Consequently, Fee Code combination LSQN is duplicative of Fee Code combination LSQ.

Implementation of the Elimination of Fee Code N

The elimination of Fee Code N will be operative beginning on August 28, 2019, as described in a trading alert issued on August 15, 2019.[21]

2. Statutory Basis

Retail Program Fees

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[22] in general, and furthers the objectives of Section 6(b)(4)[23] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable fees among IEX members and persons using its facilities. Additionally, IEX believes that the proposed fees are consistent with the investor protection objectives of Section 6(b)(5)[24] of the Act, in particular, in that they are 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 mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, brokers, or dealers.

Specifically, the Exchange's proposal not to charge fees for the execution of Retail orders and RLP orders is designed to maximize participation for the launch of the IEX Retail Program by incentivizing market participants to submit such orders to IEX, thereby enhancing IEX's ability to compete with competing exchange and non-exchange venues that offer programs for the execution of the orders of retail customers. This fee structure is designed to attract the orders of retail customers (and counterparties that wish to trade with retail customers) to the Exchange, thereby supporting the competitiveness of the Exchange's Retail Program. IEX understands that Members wishing to participate in the Retail Program will need to modify and test their order entry systems in order to do so, and free pricing is designed to provide a meaningful economic incentive for such efforts.

The Retail Program is designed to offer the potential for meaningful price improvement to orders of retail investors, including through incentivizing market participants to provide additional liquidity to execute against the orders of retail investors.[25] Offering free execution of Retail orders and RLP orders is designed to provide further incentives to send such orders to IEX.

The Exchange believes that providing free executions to Retail orders will incentivize Members and other market participants that handle orders on behalf of retail customers to route such orders to the Exchange. While the Retail Program offers the opportunity for Retail orders to obtain meaningful price improvement at the Midpoint Price, which should operate as a sufficient incentive to route such orders to IEX, the Exchange believes that free pricing will enhance such incentive. The Exchange also believes that increasing the volume of Retail orders routed to IEX will not only benefit such orders (in the form of the opportunity for meaningful price improvement), but will also incentivize and benefit the orders of contra-side liquidity providers that execute against Retail orders that view interacting with orders of retail investors as desirable.

[21] *See* IEX Trading Alert #2019–022 ''Upcoming Elimination of Fee Code N'' available at *https://iextrading.com/alerts/#/79*.

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78f(b)(4).

[24] 15 U.S.C. 78f(b)(5).

[25] *See supra* note 7.

Further, the Exchange understands that a large majority of orders from retail investors are executed in the OTC market across different wholesalers and dark pools, and exchange retail programs have not attracted a significant volume.[26] While there are likely a variety of reasons for this, providing free pricing for Retail orders and RLP orders is designed to provide a meaningful pricing incentives for Members to send orders of retail investors to IEX as well as for market participants to provide liquidity to Retail orders through RLP orders. The Exchange believes that the proposed pricing incentives will help to support the competitiveness of the IEX Retail Program, by maximizing participation for its launch, to the benefit of the retail investor.

IEX also believes that it is equitable and not unfairly discriminatory to provide free executions to Retail orders notwithstanding that not all Members handle Retail orders. There is ample precedent for differentiation of retail order flow in the retail programs of other exchanges and the Retail Program.[27] Further, other exchanges provide pricing incentives to retail orders in the form of lower fees and/or higher rebates.[28] Consequently, the Exchange does not believe that providing free executions for Retail orders raises any new or novel issues not already considered by the Commission.

Similarly, the Exchange believes that providing free executions to RLP orders will incentivize Exchange members and other market participants to submit such orders to IEX. While the Exchange believes that the Retail Program provides significant incentives to send such orders to IEX, specifically the ability to interact only with Retail orders which IEX understands is desirable to many professional market participants (as described in the rule filing adopting the Retail Program), the Exchange believes that free pricing will enhance such incentive and help to maximize participation for launch of its Retail Program as discussed above.

IEX also believes that it is equitable and not unfairly discriminatory to provide free executions to RLP orders that execute against retail orders but not to other liquidity providing orders that execute against retail orders for several reasons.[29] First, all Members are eligible to submit RLP orders to IEX, and the Exchange believes that a broad spectrum of Members may be interested in submitting RLP orders because of the ability to interact only with Retail orders. Thus, while a different fee will be charged for RLP and non-RLP orders that execute against Retail orders, the difference is not based on the type of Member submitting the order but on the type of order, and all Members can submit an RLP order.

Additionally, in order to maximize the likelihood that Retail orders will be executed, the Exchange believes that it is important to provide meaningful incentives for Members to enter liquidity providing orders to execute against Retail orders. Free execution for RLP orders is designed to provide such an incentive. Further, to the extent that free execution for RLP orders is successful in incentivizing Members to submit RLP orders, Members submitting Retail orders to the Exchange will benefit from the increased liquidity. Moreover, non-RLP providing orders have higher priority than RLP orders and are eligible to execute against any marketable contra-side order. The Exchange believes that this differentiation in trading opportunities warrants a higher fee, even when executing against a Retail order.

Finally, other exchanges provide lower fees to special order types that provide liquidity to retail orders.[30] Consequently, the Exchange does not believe that providing free executions for Retail orders raises any new or novel issues not already considered by the Commission.

Deletion of Fee Code N

The Exchange believes that deletion of Fee Code N and related Fee Code combinations is consistent with Section 6(b) of the Act,[31] in general, and furthers the objectives of Section 6(b)(4) [32] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable fees among IEX members and persons using its facilities. The Exchange also believes that deletion of Fee Code N and related Fee Code combinations is consistent with Section 6(b)(5) [33] of the Act, 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 mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, brokers, or dealers.

The Exchange believes that it is consistent with the Act to delete the functionally obsolete Fee Code N and related Fee Code combinations from its Fee Schedule, to avoid any potential confusion among Members. The Exchange further believes that the modification to the Fee Schedule is reasonable, equitable, and not unfairly discriminatory because all Members will be subject to the same fee structure.

As described in the Purpose section above, this proposed rule change does not change any fees charged by IEX, but rather eliminates an obsolete, vestigial Fee Code and its corresponding Fee Code combinations. Thus, the proposed fee change will provide clarity to market participants that IEX execution of spread-crossing eligible orders does not impact applicable fees, therefore making the Exchange's Fee Schedule clearer and more deterministic to the benefit of all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

Retail Program Fees

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, IEX believes that charging no fees for the execution of Retail orders and RLP orders would continue to enhance competition and execution quality for retail order flow among execution venues and contribute to the public price discovery process.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition since competing venues have and can continue to adopt similar fees for orders executing in their retail programs,

[26] *See* Securities Exchange Act Release No. 85160 (February 15, 2019), 84 FR 5754, 5762 (February 22, 2019) (SR–NYSE–2018–28) (approving NYSE RLP on a permanent basis) (''Although the Program provides the opportunity to achieve significant price improvement, the Program has not generated significant activity. . . . The Program's share of NYSE volume during [in 2016–17] was below 0.4%'').

[27] *See supra* note 26; *see also* Securities Exchange Act Release No. 71176 (December 23, 2013), 78 FR 79524 (December 30, 2013) (SR–NYSEArca–2013–107) (approving NYSE Arca retail pilot program); Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) (SR–BYX–2012–019) (approving Cboe BYX retail pilot program); Securities Exchange Act Release No. 73702 (November 28, 2014), 79 FR 72049 (December 4, 2014) (SR–BX–2014–048) (approving NASDAQ BX retail pilot program).

[28] *See, e.g.,* Nasdaq BX price list available at *https://www.nasdaqtrader.com/Trader.aspx?id=bx_pricing.*

[29] Where a Member submits a non-RLP order and the same Member takes that liquidity with a Retail order, execution is also free.

[30] *See, e.g., supra* note 28.

[31] 15 U.S.C. 78f(b).

[32] 15 U.S.C. 78f(b)(4).

[33] 15 U.S.C. 78f(b)(5).

subject to the SEC rule change process. Further, the Exchange operates in a highly competitive market in which market participants can easily direct their orders to competing venues, including off-exchange venues, if fees are viewed as non-competitive.

The Exchange also does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. While Retail orders and RLP orders will be treated differently, those differences are not based on the type of Member entering orders but on whether the order is for a retail customer or an entity seeking to transact with a retail customer, and there is no restriction on whether a Member can handle retail customer orders. Further, any Member can enter an RLP order.

Deletion of Fee Code N

The Exchange does not believe that deletion of Fee Code N and related Fee Code combinations will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Deletion of Fee Code N and related Fee Code combinations is not proposed for any competitive reason but to provide clarity to market participants that IEX execution of spread-crossing eligible orders does not impact applicable fees, therefore making the Exchange's Fee Schedule clearer and more deterministic to the benefit of all market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) [34] of the Act.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [35] 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–IEX–2019–08 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–IEX–2019–08. 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 offices 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–IEX–2019–08, and should be submitted on or before September 30, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–19332 Filed 9–6–19; 8:45 am]

BILLING CODE 8011–01–P

[34] 15 U.S.C. 78s(b)(3)(A)(ii).

[35] 15 U.S.C. 78s(b)(2)(B).

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86857; File No. SR–NASDAQ–2019–066]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Clarify Rule 4120(c)(9)

September 3, 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 21, 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 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 clarify Rule 4120(c)(9) without changing its substance.

The text of the proposed rule change is set forth below. Proposed new language is italicized; deleted text is in brackets.

* * * * *

The Nasdaq Stock Market Rules

* * * * *

4120. Limit Up-Limit Down Plan and Trading Halts

(a)–(b) No change.

(c) Procedure for Initiating and Terminating a Trading Halt

(1)–(8) No change.

(9) For purposes of this Rule and Rule 4753, the process for halting and initial pricing of a security that is the subject of an initial public offering shall also be available for the initial pricing of any other security that has not been listed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to the initial pricing, provided that 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. *If more than one broker-dealer is serving in the role of financial advisor, the issuer must designate one to perform the functions under Rule 4120(c)(8).*

(10) No change.

* * * * *

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

Nasdaq proposes to amend Rule 4120(c)(9) to clarify that, if more than one broker-dealer is serving in the role of financial advisor to the issuer, in order to use the Nasdaq IPO Cross, as defined below, 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, the issuer must designate one financial advisor to perform the functions under Rule 4120(c)(8).[3]

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.[4] At that time, the Exchange added new Rule 4120(c)(9)[5] 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 same crossing mechanism available for IPOs outlined in Rule 4120(c)(8) and Rule 4753 (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.[6]

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.''[7]

Rule 4120(c)(8) implies that only one underwriter performs the functions the rule describes. Typically, such functions are performed by the lead underwriter, which is referred to as ''the'' underwriter in the rule.

Similarly, Nasdaq proposes to clarify that, if more than one broker-dealer is serving in the role of financial advisor to the issuer, in order to use 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, the issuer must designate one financial advisor to perform the functions under Rule 4120(c)(8).

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 Section 6(b)(5) of the Act,[9] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Nasdaq believes that additional clarity that the issuer must designate one financial advisor to perform the functions under Rule 4120(c)(8) will promote fair and orderly markets by eliminating potential confusion and by continuing to protect against volatility in the pricing and initial trading of the unseasoned securities covered by the proposed rule change.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is designed to more clearly describe the current operation of an existing rule without changing its substance and, therefore, Nasdaq believes that the proposed change will not impose a burden on competition.

[3] On July 18, 2019, Nasdaq submitted a proposed rule change to amend 4120(c)(9). The effect of that rule change, if approved by the Commission, will be to make certain additional companies eligible to use the IPO Cross. *See* Securities Exchange Act Release No. 86537 (July 31, 2019), 84 FR 38321 (August 6, 2019) (SR–NASDAQ–2019–060).

[4] Securities Exchange Act Release No. 71931 (April 11, 2014), 79 FR 21829 (April 17, 2014) (SR–NASDAQ–2014–032) (the ''2014 Rule Change'').

[5] 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.

[6] 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.

[7] 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 6, 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.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2019–066 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–2019–066. 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 20549–1090 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–2019–066 and should be submitted on or before September 30, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–19334 Filed 9–6–19; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Rule 6a–4, Form 1–N, SEC File No. 270–496, OMB Control No. 3235–0554

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information provided for in Rule 6a–4 and Form 1–N (17 CFR 240.6a–4 and 17 CFR 249.10) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Section 6 of the Exchange Act [1] sets out a framework for the registration and regulation of national securities exchanges. Under the Commodity Futures Modernization Act of 2000, a futures market may trade security futures products by registering as a national securities exchange. Rule 6a–4 [2] sets forth these registration procedures and directs futures markets to submit a notice registration on Form 1–N.[3] Form 1–N calls for information regarding how the futures market operates, its rules and procedures, corporate governance, its criteria for membership, its subsidiaries and affiliates, and the security futures products it intends to trade. Rule 6a–4 also requires entities that have submitted an initial Form 1–N to file: (1) Amendments to Form 1–N in the event of material changes to the information provided in the initial Form 1–N; (2) periodic updates of certain information provided in the initial Form 1–N; (3) certain information that is provided to the futures market's members; and (4) a monthly report summarizing the futures market's trading of security futures products. The information required to be filed with the Commission pursuant to Rule 6a–4 is designed to enable the Commission to carry out its statutorily mandated oversight functions and to ensure that registered and exempt exchanges continue to be in compliance with the Act.

The respondents to the collection of information are futures markets.

The Commission estimates that the total annual burden of compliance with the requirements of Rule 6a–4 and Form 1–N is 171 hours per year and $1,216 per year, calculated as detailed below. The Commission estimates that the total annual burden for all respondents to provide periodic amendments to keep the Form 1–N accurate and up to date as required under Rule 6a–4(b)(1) would be 60 hours (15 hours/respondent per year × 4 respondents) and $400 of miscellaneous clerical expenses. The Commission estimates that the total annual burden for all respondents to provide annual amendments under Rule

[1] 15 U.S.C. 78f.

[2] 17 CFR 240.6a–4.

[3] 17 CFR 249.10.

6a–4(b)(3) would be 60 hours (15 hours/respondent/year × 4 respondents) and $400 of miscellaneous clerical expenses. The Commission estimates that the total annual burden for all respondents to provide three-year amendments under Rule 6a–4(b)(4) would be 27 hours (20 hours/respondent × 1.33 respondents per year) and $176 ($44 per year × 4 respondents) in miscellaneous clerical expenses. The Commission estimates that the total annual burden for the filing of the supplemental information and the monthly reports required under Rule 6a–4(c) would be 24 hours (6 hours/respondent per year × 4 respondents) and $240 of miscellaneous clerical expenses.

Compliance with Rule 6a–4 is mandatory. Information received in response to Rule 6a–4 shall not be kept confidential; the information collected is public information.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: September 4, 2019.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–19374 Filed 9–6–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86855; File No. SR–NYSEArca–2019–51]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change Regarding Investments of the Janus Henderson Mortgage-Backed Securities ETF Currently Listed and Traded on the Exchange Under NYSE Arca Rule 8.600–E

September 3, 2019.

On July 9, 2019, NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to make certain changes to the investments of the Janus Henderson Mortgage-Backed Securities ETF, the shares of which are currently listed and traded on the Exchange under NYSE Arca Rule 8.600–E. The proposed rule change was published for comment in the **Federal Register** on July 25, 2019.[3] The Commission has received no comment letters 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 after publication of the notice for this proposed rule change is September 8, 2019. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates October 23, 2019 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEArca–2019–51).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–19333 Filed 9–6–19; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* Securities Exchange Act Release No. 86417 (July 19, 2019), 84 FR 35910.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16099 and #16100; OHIO Disaster Number OH–00070]

Administrative Declaration of a Disaster for the State of Ohio

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Ohio dated 09/03/2019.

Incident: Heavy Rainfall and Flooding.

Incident Period: 07/21/2019.

DATES: Issued on 09/03/2019.

Physical Loan Application Deadline Date: 11/04/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 06/03/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Wayne

Contiguous Counties:

Ohio: Ashland, Holmes, Medina, Stark, Summit

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.875
Homeowners without Credit Available Elsewhere	1.938

	Percent
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16099 6 and for economic injury is 16100 0.

The State which received an EIDL Declaration # is Ohio.

(Catalog of Federal Domestic Assistance Number 59008)

Christopher Pilkerton,

Acting Administrator.

[FR Doc. 2019–19376 Filed 9–6–19; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16097 and #16098; Pennsylvania Disaster Number PA–00101]

Administrative Declaration of a Disaster for the State of Pennsylvania

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of Pennsylvania dated 09/03/2019.

Incident: Flash Flooding.

Incident Period: 07/11/2019 through 07/12/2019.

DATES: Issued on 09/03/2019.

Physical Loan Application Deadline Date: 11/04/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 06/03/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Berks

Contiguous Counties:

Pennsylvania: Chester, Lancaster, Lebanon, Lehigh, Montgomery, Schuylkill.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.875
Homeowners without Credit Available Elsewhere	1.938
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16097 6 and for economic injury is 16098 0.

The State which received an EIDL Declaration # is Pennsylvania.

(Catalog of Federal Domestic Assistance Number 59008)

Christopher Pilkerton,

Acting Administrator.

[FR Doc. 2019–19375 Filed 9–6–19; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF STATE

[Public Notice: 10868]

Culturally Significant Objects Imported for Exhibition—Determinations: Exhibition of Three Works of Art From the Wyvern Collection, London

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects from the Wyvern Collection, London, imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of Art, New York, New York, from on or about October 1, 2019, until on or about September 30, 2021, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Paralegal Specialist, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Marie Therese Porter Royce,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2019–19179 Filed 9–6–19; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 10755]

60-Day Notice of Proposed Information Collection: Shrimp Exporter's/Importer's Declaration

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to *November 8, 2019.*

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov*. You can search for the document by entering ''Docket Number: DOS–2019–0009'' in the Search field. Then click the

''Comment Now'' button and complete the comment form.

• *Email: DS2031@state.gov.*

• *Mail:* Send written comments to: Office of Marine Conservation (OES/OMC), Attn: Section 609 Program, 2201 C Street NW, Room 2758, Washington, DC 20520–2758.

• *Fax:* (202) 736–7350.

• *Hand Delivery or Courier:* Office of Marine Conservation (OES/OMC), Attn: Section 609 Program, 2201 C Street NW, Room 2758, Washington, DC 20520–2758.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Joseph Fette, Section 609 Program Manager, Office of Marine Conservation, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, DC 20520–2758, who may be reached at *DS2031@state.gov* or 202–647–2335.

SUPPLEMENTARY INFORMATION:

• *Title of Information Collection:* Shrimp Exporter's/Importer's Declaration.

• *OMB Control Number:* 1405–0095.

• *Type of Request:* Extension of a Currently Approved Collection.

• *Originating Office:* Bureau of Oceans and International Environmental and Scientific Affairs, Office of Marine Conservation (OES/OMC).

• *Form Number:* DS–2031.

• *Respondents:* Business or other for-profit organizations.

• *Estimated Number of Respondents:* 3,000.

• *Estimated Number of Responses:* 10,000.

• *Average Time per Response:* 10 minutes.

• *Total Estimated Burden Time:* 1,666 hours.

• *Frequency:* On occasion.

• *Obligation to Respond:* Mandatory.

We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

• Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The DS–2031 form is necessary to document imports of shrimp and products from shrimp pursuant to the State Department's implementation of Section 609 of Public Law 101–162, which prohibits the entry into the United States of shrimp harvested in ways which are harmful to sea turtles. Respondents are exporters of shrimp and products from shrimp and government officials in countries that export shrimp and products from shrimp to the United States. The importer is required to present the DS–2031 form at the port of entry into the United States, to retain the DS–2031 form for a period of three years subsequent to entry, and during that time to make the DS–2031 form available to U.S. Customs and Border Protection or the Department of State upon request.

Methodology

The DS–2031 form is completed by the exporter, the importer, and under certain conditions a government official of the harvesting country. The DS–2031 form accompanies shipments of shrimp and shrimp product to the United States and is to be made available to U.S. Customs and Border Protection at the time of entry and for three years after entry.

Deirdre M. Warner-Kramer,

Acting Deputy Assistant Secretary.

[FR Doc. 2019–19386 Filed 9–6–19; 8:45 am]

BILLING CODE 4710–09–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 55 (Sub-No. 794X)]

CSX Transportation, Inc.—Abandonment Exemption—in Pinellas County, Fla.

CSX Transportation, Inc. (CSXT), has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments* to abandon an approximately 0.86-mile rail line on its Clearwater Subdivision, between milepost ARE 897.57 and milepost ARE 898.43, in St. Petersburg, Pinellas County, Fla. (the Line). The Line traverses U.S. Postal Service Zip Codes 33701, 33705, and 33713.

CSXT has certified that: (1) No local traffic has moved over the Line for at least two years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,[1] this exemption will be effective on October 9, 2019, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 19, 2019. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 30, 2019, with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001.

[1] Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.,* subsidy or purchase) and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

A copy of any petition filed with the Board should be sent to CSXT's representative: Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void ab initio.

CSXT has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by September 13, 2019. Interested persons may obtain a copy of the EA on the Board's website, by writing to OEA, or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by CSXT's filing of a notice of consummation by September 9, 2020, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at *www.stb.gov.*

Decided: September 4, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2019–19387 Filed 9–6–19; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[FAA–2019–0446]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Mitsubishi MU–2B Series Airplane Special Training, Experience, and Operating Procedures

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 27, 2019. The collection of information is necessary to document participation in, completion of, and compliance with the pilot training program for the MU–2B series airplane.

DATES: Written comments should be submitted by October 9, 2019.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Joseph K. Hemler by email at: *joseph.k.hemler-jr@faa.gov;* phone: 202–267–0159.

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: 2120–0725.

Title: Mitsubishi MU–2B Series Airplane Special Training, Experience, and Operating Procedures.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 27, 2019 (84 FR 30787). No comments were received. In response to the increasing number of accidents and incidents involving the Mitsubishi MU–2B series airplane, the Federal Aviation Administration (FAA) began a safety evaluation of the MU–2B in July of 2005. As a result of this safety evaluation, on February 6, 2008 the FAA issued Special Federal Aviation Regulation No. 108—Mitsubishi MU–2B Series Special Training, Experience, and Operating Requirements. This Special Federal Aviation Regulation (SFAR) established a standardized pilot training program. The collection of information is necessary to document participation in, completion of, and compliance with the pilot training program for the MU–2B under subpart N of 14 CFR part 91, issued on September 7, 2016, which superseded SFAR No. 108.

Respondents: Approximately 20 part 91 training providers, and approximately 400 active MU–2 pilots.

Frequency: Every year (pilots); every two years (training providers).

Estimated Average Burden per Response: Pilots: Logbook endorsement and training course final phase check = 10 minutes. Training providers: Submission of training program = 4 hours.

Estimated Total Annual Burden: Pilots: 67 hours. Training providers: 40 hours. Total: 107 hours.

Issued in Washington, DC on September 4, 2019.

Dwayne C. Morris,

Project Manager, Flight Standards Service, General Aviation and Commercial Division.

[FR Doc. 2019–19371 Filed 9–6–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the OCC, the Board, and the FDIC (the agencies) may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it

displays a currently valid Office of Management and Budget (OMB) control number. On April 29, 2019, the agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), requested public comment for 60 days on a proposal to extend for three years, without revision, the Country Exposure Report (FFIEC 009) and the Country Exposure Information Report (FFIEC 009a), which are currently approved collections of information. The comment period for this notice expired on June 28, 2019. As described in the **SUPPLEMENTARY INFORMATION** section, after considering the comments received on the proposal, the FFIEC and agencies will proceed with the extension of the FFIEC 009 and FFIEC 009a with modifications in response to comments. In addition, the agencies are giving notice that they are sending the collections to OMB for review.

DATES: Comments must be submitted by October 9, 2019.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

OCC: You may submit comments, which should refer to ''FFIEC 009 and FFIEC 009a,'' by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Office of the Comptroller of the Currency, Attention: 1557–0100, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

Instructions: You must include ''OCC'' as the agency name and ''1557–0100'' 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 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 ''1557–0100'' or ''FFIEC 009 and FFIEC 009a.'' 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.

Board: You may submit comments, which should refer to ''FFIEC 009 and FFIEC 009a,'' by any of the following methods:

- *Agency Website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at: *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Email: regs.comments@federalreserve.gov.* Include ''FFIEC 009 and FFIEC 009a'' in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available on the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

FDIC: You may submit comments, which should refer to ''FFIEC 009 and FFIEC 009a,'' by any of the following methods:

- *Agency website: https://www.fdic.gov/regulations/laws/federal/.* Follow the instructions for submitting comments on the FDIC's website.
- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: comments@FDIC.gov.* Include ''FFIEC 009 and FFIEC 009a'' in the subject line of the message.
- *Mail:* Manuel E. Cabeza, Counsel, Attn: Comments, Room MB–3128, 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 Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

Public Inspection: All comments received will be posted without change to *https://www.fdic.gov/regulations/laws/federal/,* including any personal information provided. Paper copies of public comments may be requested from the FDIC Public Information Center, 3501 North Fairfax Drive, Arlington, VA 22226, or by telephone at (877) 275–3342 or (703) 562–2200.

Additionally, commenters may send a copy of their comments to the OMB desk officers for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503; by fax to (202) 395–6974; or by email to *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: For further information about the information collections discussed in this notice, please contact any of the agency staff whose names appear below. In addition, copies of the FFIEC 009 and FFIEC 009a reporting forms can be obtained at the FFIEC's website (*https://www.ffiec.gov/ffiec_report_forms.htm*).

OCC: Kevin Korzeniewski, Counsel, Chief Counsel's Office, (202) 649–5490, or for persons who are deaf or hearing impaired, TTY, (202) 649–5597.

Board: Nuha Elmaghrabi, Federal Reserve Board Clearance Officer, (202) 452–3884, Office of the Chief Data

Officer, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

FDIC: Manuel E. Cabeza, Counsel, (202) 898–3767, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: On April 29, 2019, the agencies requested public comment on a proposal to extend for three years, without revision, the FFIEC 009 and FFIEC 009a. The agencies received one comment letter.

The commenter, a banking trade association, raised issues related to consistency in certain defined terms and reporting treatments between the FFIEC 009 and FFIEC 009a, and other information collections undertaken by the FFIEC, its member entities, and Treasury.

First, the commenter stated that, while the FFIEC 009 and FFIEC 009a instructions define domicile of counterparties on the basis of ''country of incorporation or charter,'' the definition is not uniform across all FFIEC and Board reports. This definition, while consistent with that used in some non-FFIEC reports (*i.e.,* Treasury International Capital or ''TIC'' reports and the Board's FR Y–15), is inconsistent with the terms ''principal business address'' and ''country in which the obligor is headquartered'' used in the Call Report [1] as well as the Board's FR Y–9C and FR Y–14Q. The agencies believe the definition of domicile using ''country of incorporation or charter'' provides a clearer basis for determination of domicile and a more consistent basis over time for the purposes of the FFIEC 009 and FFIEC 009a, which is designed to provide a more detailed and accurate view of cross-border country exposures than the other reports. Accordingly, the agencies propose to retain the ''country of incorporation or charter'' definition for reporting the domicile of counterparties in the FFIEC 009 and FFIEC 009a instructions.

Second, the commenter stated the FFIEC 009 and FFIEC 009a instructions, in defining financial institutions for sector reporting, include some different categories of institutions in the non-bank financial institutions sector when compared to three Board reports (FR Y–15, FR 2510, and FR Y–9C). The FFIEC 009 instructions specifically include private equity companies, finance companies, and mortgage companies along with other types of institutions in the definition of non-bank financial institutions, while the instructions for the Board's FR Y–15 specifically exclude finance companies and do not mention private equity companies or mortgage companies in the definition of ''financial institutions'' used in specifying interconnectedness indicators (Schedule B). The agencies note that the definition of non-bank financial institutions in the Board's FR 2510 corresponds to the definition used in the FFIEC 009, and the definition of ''non-depository financial institutions'' used in the Board's FR Y–9C (Schedule HC–C) includes finance companies, mortgage companies, and mortgage finance companies among other types of institutions. The agencies believe that private equity companies, finance companies, and mortgage companies are meaningful components of the non-bank financial sector for purposes of the FFIEC 009 and that collected data on exposures to these types of companies would be less useful if included together with the corporate sector. The agencies also note that it is important for data collected in the FFIEC 009 to be comparable to data gathered for the same purpose by other jurisdictions, so that these data can be combined by the Bank for International Settlements (BIS) into meaningful global aggregate statistical data that are issued as the BIS Consolidated Banking Statistics (CBS); these aggregate data are relied upon by FFIEC member entities (including the agencies) and many others to monitor and analyze global banking and financial conditions. The definition in the FFIEC 009 instructions of these types of companies as non-bank financial companies conforms with the definition under the CBS. Therefore, the agencies propose to retain the definition of non-bank financial sector that includes these types of companies.

Third, the commenter stated that, as a result of a recent change in U.S. generally accepted accounting principles (GAAP), the FFIEC 009 and FFIEC 009a would collect operating lease liabilities without capturing corresponding operating lease assets. The commenter considered this treatment to be inappropriately asymmetric and recommended that operating lease liabilities be excluded from reporting on Schedule L of the FFIEC 009. The agencies agree that operating lease right-of-use assets should properly be excluded from reporting on the FFIEC 009, like other fixed assets, but believes that operating lease liabilities are now reportable as liabilities under GAAP, and thus should be included in foreign liabilities for purposes of the FFIEC 009. Unlike financial-statement collections such as the Call Report or the Board's FR Y–9C, the FFIEC 009 is designed to collect additional detail for specific types of claims and liabilities and not to reflect a comprehensive and symmetric balance sheet. Therefore, the agencies propose to not exclude operating lease liabilities from Schedule L of the FFIEC 009.

Fourth, the commenter noted that Schedule L of the FFIEC 009 requires reporting of short sales by country of the counterparty to which the foreign office owes delivery until the settlement date. The commenter believed this treatment to be inconsistent with the corresponding treatment in the Board's FR 2510, which provides that the immediate counterparty country and sector for short sale contracts are those of the issuer of the financial instrument that has been sold short. The commenter recommended that the reporting of short sales in Schedule L of the FFIEC 009 should be revised to conform with the treatment provided in the Board's FR 2510. The agencies also note that the reporting of short sales in the Board's FR 2510 is consistent with the BIS guidelines for reporting CBS data (''CBS Guidelines'').[2] Therefore, the agencies agree with the commenter and propose to revise the instructions for Schedule L so that reporting of short sales is based on the immediate counterparty and sector of the issuer rather than that of the counterparty to the short-sale transaction.

Fifth, the commenter noted a difference in treatment between the FFIEC 009 and U.S. GAAP for netting trading assets against trading liabilities in the same security (*i.e.,* Committee on Uniform Security Identification Procedures (CUSIP) netting) and stated that changing the FFIEC 009 instructions to align with netting under U.S. GAAP would reduce the burden on banking organizations required to report the FFIEC 009. To address this concern, the commenter recommended that CUSIP netting for purposes of the FFIEC 009 be aligned with netting permitted under U.S. GAAP to simplify the currently required operational and reconciliation processes. The agencies believe that aligning CUSIP netting with U.S. GAAP for country exposure reporting would potentially distort such reporting in cases in which the office holding the position, the issuer of the underlying security, and the counterparty to the short position are not the same. The agencies also note

[1] The Consolidated Reports of Condition and Income, also referred to as the FFIEC 031, FFIEC 041, and FFIEC 051 reports.

[2] BIS, Monetary and Economic Department, *Reporting guidelines for the BIS international banking statistics* (July 2019) available at *https://www.bis.org/statistics/bankstatsguide.pdf.*

that it is important for data collected in the FFIEC 009 to be comparable to data gathered for the same purpose by other jurisdictions, so that these data can be combined by the BIS into meaningful global aggregate statistical data as the CBS. Aligning CUSIP netting with U.S. GAAP for country exposure reporting by U.S. banking organizations in the FFIEC 009 would create a key inconsistency between U.S. data and data provided by other jurisdictions which adhere to International Financial Reporting Standards (IFRS) because IFRS does not allow for CUSIP netting. Therefore, the agencies propose to retain the current, more limited use of CUSIP netting described in the FFIEC 009 instructions.

Finally, the commenter suggested that items to be excluded under Schedule C and Schedule L of the FFIEC 009 should be more specifically identified and the list of exclusions should be expanded. The commenter recommended that certain cross-border claims (*i.e.,* bank-owned or company-owned life insurance, deferred tax assets, physical commodities held in inventory, initial margin, pension assets, and cash in vault) should be excluded from Schedule C of the FFIEC 009 and that deferred tax liabilities should be excluded from Schedule L.

As a general matter, the agencies believe that the decision to include or exclude items as in Schedule C of the FFIEC 009 should be based on whether the items represent financial claims (or, for Schedule L, foreign office financial liabilities) in order to provide a proper and meaningful basis for the agencies to analyze country exposure, and should be consistent with the CBS Guidelines in order that data collected in the FFIEC 009 and FFIEC 009a would be comparable with data being provided to CBS by other jurisdictions.

In this context, the agencies agree with the commenter that bank-owned and company-owned life insurance, physical commodities held in inventory, and pension assets should not be considered financial claims for purposes of the FFIEC 009 and FFIEC 009a. Therefore, the agencies propose to revise the instructions to exclude these items from reporting in the FFIEC 009 and FFIEC 009a by adding them to the list of ''Exclude'' items in section II.A of the instructions to the FFIEC 009.

The agencies do not agree with the commenter with regard to initial margin because the agencies believe that initial margin represents a financial claim like others related to derivatives. The agencies therefore propose that initial margin should continue to be reported as part of derivative claims in Schedule D.

The agencies believe that cash in vault represents a financial claim and, moreover, that this claim is subject to transfer risk, an important element of the risks that may be associated with cross-border financial claims. As a result, the agencies do not agree with the commenter and propose that cash in vault should continue to be reported in the FFIEC 009 and FFIEC 009a.

Finally, the agencies do not agree with the commenter that deferred tax assets and liabilities are not financial claims. In addition, the agencies note that deferred tax assets and liabilities are specifically identified in the CBS Guidelines as reportable claims (liabilities). Therefore, the agencies propose to retain the current inclusion of deferred tax assets and liabilities among reportable items in the FFIEC 009 and FFIEC 009a.

To provide sufficient time for respondents to make any changes to their reporting systems that may be needed to reflect the agencies' proposed instructional revisions discussed above, the agencies will permit respondents to file the FFIEC 009 and FFIEC 009a for the periods ending September 30, 2019, and December 31, 2019, using either the existing definitions or the revised definitions for the items discussed above.

Report Titles: Country Exposure Report and Country Exposure Information Report.

Form Numbers: FFIEC 009 and FFIEC 009a.

Frequency of Response: Quarterly.

Affected Public: Business or other for profit.

OCC

OMB Number: 1557–0100.

Estimated Number of Respondents: 11 (FFIEC 009), 5 (FFIEC 009a).

Estimated Average Time per Response: 131 hours (FFIEC 009), 6 hours (FFIEC 009a).

Estimated Total Annual Burden: 5,764 hours (FFIEC 009), 120 hours (FFIEC 009a).

Board

OMB Number: 7100–0035.

Estimated Number of Respondents: 49 (FFIEC 009), 35 (FFIEC 009a).

Estimated Average Time per Response: 131 hours (FFIEC 009), 6 hours (FFIEC 009a).

Estimated Total Annual Burden: 25,676 hours (FFIEC 009), 840 hours (FFIEC 009a).

FDIC

OMB Number: 3064–0017.

Estimated Number of Respondents: 15 (FFIEC 009), 12 (FFIEC 009a).

Estimated Average Time per Response: 131 hours (FFIEC 009), 6 hours (FFIEC 009a).

Estimated Total Annual Burden: 7,860 hours (FFIEC 009), 288 hours (FFIEC 009a).

General Description of Reports

The Country Exposure Report (FFIEC 009) is filed quarterly with the agencies and provides information on international claims of U.S. banks, savings associations, bank holding companies, savings and loan holding companies, and intermediate holding companies (U.S. banking organizations) that is used for supervisory and analytical purposes. The information is used to monitor the foreign country exposures of reporting institutions to determine the degree of risk in their portfolios and assess the potential risk of loss. Information reported in the FFIEC 009 also serves as the source for country risk exposure data for U.S. banking organizations that the BIS combines with comparable data from other jurisdictions into global aggregate statistical data on country risk exposure as the BIS CBS. The Country Exposure Information Report (FFIEC 009a) is a supplement to the FFIEC 009 and provides publicly available information on material foreign country exposures (all exposures to a country in excess of 1 percent of total assets or 20 percent of capital, whichever is less) of U.S. banking organizations that file the FFIEC 009 report. As part of the Country Exposure Information Report, reporting institutions also must furnish a list of countries in which they have lending exposures above 0.75 percent of total assets or 15 percent of total capital, whichever is less.

Statutory Basis and Confidential Treatment

These information collections are mandatory under the following statutes: 12 U.S.C. 161 and 1817 (national banks), 12 U.S.C. 1464 (federal savings associations), 12 U.S.C. 248(a)(1) and (2), 1844(c), and 3906 (state member banks and bank holding companies); 12 U.S.C. 1467a(b)(2)(A) (savings and loan holding companies); 12 U.S.C. 5365(a) (intermediate holding companies); and 12 U.S.C. 1817 and 1820 (insured state nonmember commercial and savings banks and insured state savings associations). The FFIEC 009 information collection is given confidential treatment (5 U.S.C. 552(b)(4) and (b)(8)). The FFIEC 009a information collection is not given confidential treatment.

Request for Comment

The agencies invite comment on the following topics related to these collections of information:

(a) Whether the information collections are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this joint notice will be shared among the agencies. All comments will become a matter of public record.

Dated: August 30, 2019

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, September 3, 2019.

Ann Misback,

Secretary of the Board.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on September 3, 2019.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2019–19369 Filed 9–6–19; 8:45 am]

BILLING CODE 4810–33–6210–01–6714–01–P

FEDERAL REGISTER

Vol. 84 Monday,

No. 174 September 9, 2019

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing Residual Risk and Technology Review; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

EPA–HQ–OAR–2018–0415; FRL–9998–78–OAR]

RIN 2060–AU23

National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing amendments to the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Cellulose Products Manufacturing to address the results of the residual risk and technology review (RTR) that the EPA is required to conduct under the Clean Air Act (CAA). The EPA is proposing to amend provisions addressing periods of startup, shutdown, and malfunction (SSM); to add provisions regarding periodic emissions testing and electronic reporting; to provide more flexibility for monitoring requirements; and to make technical and editorial changes. While the proposed amendments would not result in reductions in emissions of hazardous air pollutants (HAP), this action, if finalized, would result in improved monitoring, compliance, and implementation of the rule.

DATES: *Comments.* Comments must be received on or before October 24, 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 9, 2019.

Public hearing. If anyone contacts us requesting a public hearing on or before September 16, 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/cellulose-products-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–2018–0415, 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–2018–0415 in the subject line of the message.
- *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2018–0415.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2018–0415, 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 operation 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 Dr. Kelley Spence, Sector Policies and Programs Division (Mail Code: E143–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–3158; fax number: (919) 541–0516; and email address: *spence.kelley@epa.gov*. For specific information regarding the risk modeling methodology, contact Mr. James Hirtz, 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) 541–0881; and email address: *hirtz.james@epa.gov*. For questions about monitoring and testing requirements, contact Ms. Theresa Lowe, 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) 541–4786; fax number: (919) 541–4991; and email address: *lowe.theresa@epa.gov*. For information about the applicability of the NESHAP to a particular entity, contact Ms. Maria Malave, 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) 564–7027; and email address: *malave.maria@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–2018–0415. All documents in the docket are listed in *Regulations.gov*. Although listed, some information is not publicly available, *e.g.,* CBI (Confidential Business Information) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. 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–2018–0415. 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–2018–0415.

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:

%R percent recovery
ADI Applicability Determination Index
AEGL acute exposure guideline level
AERMOD air dispersion model used by the HEM–3 model
ASTM American Society for Testing and Materials
CAA Clean Air Act
CalEPA California EPA
CBI Confidential Business Information
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CEMS continuous emissions monitoring system
CEP Cellulose Ethers Production
CFR Code of Federal Regulations
CMC carboxymethyl cellulose
COS carbonyl sulfide
CS_2 carbon disulfide
EPA Environmental Protection Agency
ERPG Emergency Response Planning Guideline
ERT Electronic Reporting Tool
FTIR Fourier Transform Infrared
GACT generally available control technology
H_2S hydrogen sulfide
HAP hazardous air pollutant(s)
HCl hydrochloric acid
HEC hydroxyethyl cellulose
HEM-3 Human Exposure Model-3
HF hydrogen fluoride
HI hazard index
HPC hydroxypropyl cellulose
HPMC hydroxypropyl methyl cellulose
HQ hazard quotient
IBR incorporation by reference
ICR information collection request
ID identifier
IRIS Integrated Risk Information System
km kilometers
km^2 square kilometers
MACT maximum achievable control technology
MC methyl cellulose
mg/kg-day milligrams per kilogram per day
mg/m^3 milligrams per cubic meter
MIR maximum individual risk
MVP Miscellaneous Viscose Processes
NAAQS National Ambient Air Quality Standards
NAICS North American Industry Classification System
NaOH sodium hydroxide
NATA National Air Toxics Assessment
NESHAP national emission standards for hazardous air pollutants
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
PRA Paperwork Reduction Act
QA quality assurance
RBLC Reasonably Available Control Technology/Best Available Control Technology/Lowest Achievable Emission Limits 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
SBA Small Business Administration
SCC source classification code
SSM startup, shutdown, and malfunction
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
USGS United States Geological Survey
VCS voluntary consensus standards
VOC volatile organic compounds

Organization of this document. The information in this preamble is organized as follows:

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 under CAA section 112(f)(2)?
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. This proposed action will not affect federal, state, local, and tribal government entities. 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) included separate source categories for the various cellulose products manufacturing industries. The source categories on the initial list were Cellulose Food Casings, Rayon, Cellophane, Methyl Cellulose, Carboxymethyl Cellulose, and Cellulose Ethers Production. The Cellulose Ethers Production source category on the initial list included the hydroxyethyl cellulose, hydroxypropyl cellulose, and hydroxypropyl methyl cellulose industries. In developing the original proposed rule for Cellulose Products Manufacturing, we identified another cellulose products manufacturing industry, Cellulosic Sponge Manufacturing, that was not on the initial source category list. We added Cellulosic Sponge Manufacturing to the source category list on November 18, 1999 (64 FR 63026) in accordance with section 112(c) of the CAA. When the EPA proposed the Cellulose Products Manufacturing NESHAP on August 28, 2000 (65 FR 52166), the Cellulose Food Casings, Rayon, Cellophane, and Cellulosic Sponge Manufacturing source categories were combined to create a new source category called ''Miscellaneous Viscose Processes.'' At the same time, we combined the Methyl Cellulose, Carboxymethyl Cellulose, and Cellulose Ethers Production source categories to create a newly expanded ''Cellulose Ethers Production'' source category. On February 12, 2002 (67 FR 6521), we published an updated source category list that included the Miscellaneous Viscose Processes (MVP) and Cellulose Ethers Production (CEP) source categories.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

Source category	NESHAP	NAICS code [1]
Miscellaneous Viscose Processes	Cellulose Products Manufacturing	325211, 325220, 326121, 326199.
Cellulose Ethers Production	Cellulose Products Manufacturing	325199.

[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/cellulose-products-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–2018–0415).

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 requirements. 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 requirements 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 requirements, 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 (DC 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 (D.C. Cir. 2008). *Association of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (D.C. 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?

The MVP source category includes any facility engaged in the production of cellulose food casings, rayon, cellophane, or cellulosic sponges, which includes the following process steps: Production of alkali cellulose from cellulose and sodium hydroxide (NaOH); production of sodium cellulose xanthate from alkali cellulose and carbon disulfide (CS_2) (xanthation); production of viscose from sodium cellulose xanthate and NaOH solution; regeneration of liquid viscose into solid cellulose; [2] and washing of the solid cellulose product (see 65 FR 52171–2, August 28, 2000). It should be noted that, while the current Cellulose Products Manufacturing NESHAP includes standards for rayon manufacturing, all rayon plants in the United States have shut down since promulgation of the original rule.

The CEP source category includes any facility engaged in the production of carboxymethyl cellulose (CMC), hydroxyethyl cellulose (HEC), hydroxypropyl cellulose (HPC), methyl cellulose (MC), or hydroxypropyl methyl cellulose (HPMC), which includes the following process steps: Production of alkali cellulose from cellulose and NaOH; reaction of the alkali cellulose with one or more organic chemicals to produce a cellulose ether product; [3] washing and purification of the cellulose ether product; and drying of the cellulose ether product (see 65 FR 52171, August 28, 2000).

[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.

[2] The MVP operations use different methods and equipment to complete the regeneration step. Cellulose food casing operations extrude viscose through a die, forming a tube, while rayon operations extrude viscose through spinnerets, forming thin strands. Cellophane operations extrude viscose through a long slit, forming a flat sheet, while cellulosic sponge operations feed a mixture of viscose and Glauber's salt into a sponge mold.

[3] To produce CMC, HEC, HPC, MC, and HPMC, alkali cellulose is reacted with chloroacetic acid, ethylene oxide, propylene oxide, methyl chloride, and a combination of methyl chloride and propylene oxide, respectively.

This proposal includes both a residual risk assessment and a technology review of the emission sources subject to the Cellulose Products Manufacturing NESHAP. The NESHAP requires MVP operations to reduce the total sulfide emissions from their process vents and control the CS_2 emissions from their CS_2 unloading and storage operations. It also requires cellophane operations to reduce the toluene emissions from their solvent coating operations and toluene storage vessels. The NESHAP requires CEP operations to control the HAP emissions from their process vents, wastewater, equipment leaks, and liquid streams in open systems. The NESHAP requires both MVP and CEP operations to comply with work practice standards for closed-vent systems and heat exchanger systems. The NESHAP also includes various operating limits, initial and continuous compliance requirements, and recordkeeping and reporting requirements for the MVP and CEP source categories.

C. What data collection activities were conducted to support this action?

On June 8, 2018, the EPA sent out a survey to the cellulose products manufacturing industry to gather information needed to conduct the regulatory reviews required under CAA sections 112(d)(6) and 112(f)(2). The EPA divided the survey into two parts. Part 1 requested updated inventory data for emission sources subject to 40 CFR part 63, subpart UUUU, to support the residual risk assessment for the two source categories for purposes of detailed residual risk modeling. Part 2 requested available information on process equipment, control devices, and other pertinent information to support the 40 CFR part 63, subpart UUUU, technology review. The response rate for the survey was 100 percent. For more details on the data collection conducted to prepare inputs for the residual risk assessment, see the memorandum titled *Preparation of the Residual Risk Modeling Input File for Subpart UUUU,* in the docket for this rulemaking. For more details on the data collection conducted for the technology review, see the memorandum titled *Technology Review for the Cellulose Products Manufacturing Source Category—Proposed Rule,* also available in the docket.

D. What other relevant background information and data are available?

In addition to survey data provided by the regulated facilities, the EPA reviewed a number of other information sources to determine if there have been developments in practices, processes, or control technologies by cellulose products manufacturing facilities to support the technology review. These information sources include:

- Emissions data (*e.g.,* stack test reports and continuous emissions monitoring system (CEMS) data) submitted with survey responses;
- Facility operating permits submitted with survey responses and collected from state agencies;
- Semiannual compliance reports submitted with survey responses;
- Other documentation submitted with survey responses (*e.g.,* compliance calculations; process flow diagrams; Safety Data Sheets; information on monitoring, wastewater, and equipment leaks);
- Information on air pollution control options utilized by the industry from the EPA's Reasonably Available Control Technology/Best Available Control Technology/Lowest Achievable Emission Limits Clearinghouse (RBLC);
- Information on applicability and compliance issues from the EPA's Applicability Determination Index (ADI); and
- Literature review of recent information on MVP and CEP practices, processes, and control technologies.

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 proposal.

A. How do we consider risk in our decision-making under CAA section 112(f)(2)?

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.[4] 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 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

[4] 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.

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 categories under review, mobile source emissions, natural source emissions, persistent environmental pollution, or atmospheric transformation in the vicinity of the sources in the categories.

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.'' [5]

In response to the SAB recommendations, the EPA incorporates cumulative risk analyses into its RTR risk assessments, including those reflected in this proposal. 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 actually conducted (see section IV.A 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

[5] Recommendations of the SAB Risk and Technology Review 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.*

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 documents which provide more information on the risk assessment inputs and models: *Residual Risk Assessment for the Miscellaneous Viscose Processes Source Category in Support of the 2019 Risk and Technology Review Proposed Rule* and *Residual Risk Assessment for the Cellulose Ethers Production Source Category in Support of the 2019 Risk and Technology Review Proposed Rule*. The methods used to assess risk (as described in the eight 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; [6] 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?

As discussed in section II.C of this preamble, we used data from Part 1 of the 2018 survey as the basis for the risk assessment for the MVP and CEP source categories. Part 1 of the survey, which concluded in August/September 2018, targeted facilities that are major sources of HAP emissions and involved an update of pre-populated National Emissions Inventory (NEI) data spreadsheets (or creation of new datasets). The NEI is a database that contains information about sources that emit criteria air pollutants, their precursors, and HAP. The NEI database includes estimates of actual annual air pollutant emissions from point and volume sources; emission release characteristic data such as emission release height, temperature, diameter, velocity, and flow rate; and locational latitude/longitude coordinates. We asked facilities subject to the Cellulose Products Manufacturing NESHAP to refine (or create new) inventories based on their NEI datasets for purposes of detailed residual risk modeling. Refinements included providing additional details for HAP emission sources, providing more specific information on the location and characteristics of emission points (*e.g.,* updating emission release coordinates and parameters), and adding or updating HAP emissions data for each emission release point. We compiled the updated datasets for each individual facility into MVP and CEP emissions databases to create the MACT source category residual risk modeling files.

The actual annual emissions data in the emissions databases include data from source tests, CEMS, material balances, emission factors, emission models, and engineering judgment provided by sources surveyed in Part 1 of the survey. We received a comprehensive set of emissions estimates that enabled us to conduct risk modeling of HAP emissions for all major source facilities in the MVP and CEP source categories.

We conducted substantial quality assurance (QA) efforts on the Part 1 data in order to create the modeling files needed for the 40 CFR part 63, subpart UUUU, residual risk assessment.[7] We first reviewed the Part 1 databases to remove non-applicable data (*e.g.,* data marked for deletion by survey respondents) unless we considered them to be source-category data, emission units identified as not subject to the Cellulose Products Manufacturing NESHAP, emission units identified as shut down, records with non-HAP data, and records with zero emissions. No duplicate emissions data were discovered during the QA.

We reviewed the databases to ensure that each record contained a facility identifier (ID), emission unit ID, and process ID. If an ID was missing, one was assigned using information provided by industry (*e.g.,* from EPA databases, from emission unit description or process description in the NEI). In some cases, emission unit IDs and process IDs were revised for consistency. Looking across the updated MVP and CEP inventories, we also reviewed whether there may be any referential integrity issues associated with these IDs (*e.g.,* having the same emission unit ID associated with multiple emission unit descriptions or having the same process ID associated with multiple process descriptions or multiple source classification codes (SCCs)). In those cases, we revised the appropriate ID to address the issue.

In addition, each record was checked to ensure it was labeled with a regulatory code, SCC, and emission process group. No regulatory codes or SCCs were found missing. The SCCs for some records were revised for consistency. Where information on emission process group was missing, the emission process group was determined based on information from SCCs, comments from survey respondents, *etc.* Next, the SCCs and emission process groups were compared and reviewed for consistency with each other; no issues were found.

We reviewed the pollutant codes in the source category risk modeling files to ensure the codes and descriptions matched the latest code lookup table used by the EPA for risk modeling files; the review found the records to be consistent.

We speciated data for chromium and mercury using default speciation criteria for those pollutants for the specific SCC. We speciated chromium emissions as hexavalent chromium (chromium VI) and trivalent chromium (chromium III). We speciated mercury emissions as particulate divalent mercury, gaseous divalent mercury, and gaseous elemental mercury. We were unable to speciate data for glycol ether for one facility because no information on the glycol ether compound(s) emitted was available from the facility in their Part 1 survey response or operating permit. For unspeciated emission inventories, it is the EPA's risk assessment policy to use the most potent noncancer health benchmark as the default emission compound; in this case, ethylene glycol methyl ether would be modeled.

We reviewed the emissions data by calculating the percent of facilities reporting each HAP, comparing emissions of a facility to category average emissions, calculating standard deviations, and identifying outliers. No pollutants in the MVP and CEP modeling files were found above or below the range for either category.

We reviewed the MVP and CEP risk modeling files to ensure that each record in these files contained an emission release point ID. If an ID was missing, one was assigned using information provided by industry (*e.g.,* from the emission unit ID or process ID). In some cases, emission release point IDs were revised for consistency. Looking across the updated MVP and CEP inventories, we also determined whether there may be any referential integrity issues associated with the emission release information. For each emission release point, each record

[6] 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.*

[7] These QA efforts are discussed in an April 15, 2019 memorandum in the docket titled *Preparation of the Residual Risk Modeling Input File for Subpart UUUU.*

should have one set of coordinates (latitude and longitude) and one set of stack or fugitive parameters. All records were reviewed for consistency with respect to the emission release point. Where any such issues were identified, we revised the emission release point ID, stack/fugitive parameters, and/or coordinates to address the issue.

We reviewed emission points labeled as stacks to ensure no fugitive parameters were identified; any fugitive parameter values (usually zeroes) entered for these records were deleted. We reviewed stack parameters to ensure all were populated with reasonable values and made changes where necessary. We checked stack height data to ensure that they were greater than stack diameter. We checked exit gas flow rate data to determine whether they met the EPA's criteria that the flow rate must be within 10 percent of the calculated value (assuming a cylindrical stack). Where exit gas flow rate values did not meet the 10-percent criteria, we conducted a review to determine the source of the discrepancy (*e.g.,* the reported stack parameter was in the wrong units). We also checked for missing stack parameters and populated the missing data using values from other records for the same emission release point; if values from other records were not available, we calculated the missing value based on other related parameters for the same emission release point (*e.g.,* calculated exit gas velocity using available data for stack diameter and exit gas flow rate).

We checked fugitive parameters to ensure there was an associated length, width, and angle, and that no stack parameters for fugitive sources were erroneously populated, other than the required national defaults.

We checked coordinate values (latitude and longitude) to determine if there were any missing values and to ensure only one set of coordinates appeared for each emission release point. We populated the missing data using values from other records for the same emission release point, where possible. We revised coordinate values where necessary to ensure coordinates were consistent for the same emission point. We also checked coordinate values to ensure that all coordinates were on the facility property, by analyzing the distance between coordinates at individual facilities. Only one emission point, a wastewater treatment system emission unit, was found to be an outlier, and the coordinates of this emission point were checked and were found to lie on wastewater tanks near the boundary of the property.

We checked the source category risk modeling files for missing control measure information and filled gaps using control measure comments provided by respondents in their Part 1 survey responses or process diagrams provided by respondents in their Part 2 survey responses.

The emissions inventory for MVP sources identifies no emissions of PB–HAP. The emissions inventory for CEP sources identifies emissions of the following PB–HAP: Cadmium compounds, arsenic compounds, lead compounds, and mercury compounds. Risk-based screening levels are available for Tier 1 screening for all of the above PB–HAP except lead compounds, which are compared to the level of the current National Ambient Air Quality Standard (NAAQS) for lead.

Consistent with the EPA's standard practice in conducting risk assessments for source categories, we conducted a two-step process to determine: (1) Whether PB–HAP are being emitted; and (2) whether they are being released above screening levels. If these releases are significantly above the screening levels and the EPA has detailed information on the releases and the site, a complete multipathway analysis of the site is conducted to estimate pathway risks for the source category.

We considered actual emissions of the ecological HAP emitted from the CEP source category in the ecological HAP analysis. In addition to the PB–HAP emitted from the CEP source category, we considered hydrochloric acid (HCl) and hydrogen fluoride (HF) for ecological HAP modeling. The CEP source category, however, does not emit HF. Further information about the multipathway analysis performed for this category follows in section IV.A.2.c of this preamble.

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 requirements 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 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.)

Actual emissions are sometimes less than allowable emissions due to a compliance margin, a more stringent state or local rule, or over-control due to the use of control technologies, equipment, or work practices that are significantly better than that required to meet 40 CFR part 63, subpart UUUU, emission limits. Consequently, as part of the Part 1 survey instructions, the EPA requested that facilities provide MACT-allowable emissions estimates.

Allowable emissions estimates were available for four of the five MVP facilities. Two MVP facilities provided their allowable emissions in their Part 1 survey spreadsheet. Two other MVP facilities provided their allowable emissions separately, in their Part 1 survey response letter. The latter two facilities stated that the stack parameters would be expected to be different if they were to emit at the allowable emissions levels because additional ductwork and ductwork modifications would be expected in order to route additional fumes to their biofilters if they increased capacity. While we do not intend MACT-allowable emissions in this risk modeling effort to represent the maximum potential-to-emit emission rate, we conservatively used this information for modeling because it was the only readily available information. We created new records in the MVP risk modeling file to include just these allowable emissions data and their associated stack parameters. To avoid any referential integrity issues, we assigned a different emission release point ID to these allowable emissions records.

The remaining MVP facility did not provide allowable emissions data in their survey spreadsheet. However, this facility is the only one in its subcategory, so the original MACT for the subcategory was based on their level of control. Consequently, we assumed that allowable emissions were equal to the reported actual emissions. So, for this facility, the allowable multiplier is 1.

There were some gaps in the allowable emissions estimates provided by the MVP facilities. Allowable emissions for carbonyl sulfide (COS) were not available for one MVP facility

for one of their processes because they report it as part of the hydrogen sulfide (H_2S) limit in their title V permit. We created a new record in the MVP risk modeling file that calculated the COS allowable emissions for this process using the same multiplier as H_2S (6.8). Allowable emissions for CS_2 were also not available for a second MVP facility for some of their processes. We calculated the allowable emissions for this facility using the median of the multipliers for those processes at the facility that had allowable emissions estimates. Using this approach, we estimated the median allowable multiplier for CS_2 for this facility to be approximately 2.4.

Allowable emissions estimates were available for 48 percent of the records in the CEP risk modeling file, and the remaining 52 percent of records had no allowable emissions estimates. Of that 52 percent of records, 33 percent were uncontrolled sources of organic HAP, and 19 percent were controlled sources of organic HAP.

For uncontrolled CEP sources without allowable emissions data (*e.g.,* fugitive emissions), we assumed that allowable emissions were equal to their reported actual emissions, since there is no additional control beyond current emissions. For controlled CEP sources without allowable emissions data, we reviewed Part 2 survey data on emission controls for these sources and found that all of these sources were already meeting the 99-percent control required under 40 CFR part 63, subpart UUUU, and based on the data reported, there is little if any additional control beyond current emissions. Consequently, allowable emissions are equal to actuals for controlled CEP sources.

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 proposal were estimated using the Human Exposure Model (HEM–3).[8] 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.[9] 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, 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[10] 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 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, 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 the 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[11] 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

[8] For more information about HEM–3, go to *https://www.epa.gov/fera/risk-assessment-and-modeling-human-exposure-model-hem.*

[9] 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).

[10] A census block is the smallest geographic area for which census statistics are tabulated.

[11] 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.*

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 environment,[12] 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 the *Residual Risk Assessment for the Miscellaneous Viscose Processes Source Category in Support of the 2019 Risk and Technology Review Proposed Rule* and in the *Residual Risk Assessment for the Cellulose Ethers Production Source Category in Support of the 2019 Risk and Technology Review Proposed Rule* and in Appendix 5 of both reports: *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,[13] 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 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.''[14] 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 repr esent threshold exposure limits for the general public and are applicable to emergency exposures ranging from 10 minutes to 8 hours.[15] 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

[12] 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*).

[13] In the absence of hourly emission data, we develop estimates of maximum hourly emission rates by multiplying the average actual annual emissions 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 the Miscellaneous Viscose Processes Source Category in Support of the 2019 Risk and Technology Review Proposed Rule, Residual Risk Assessment for the Cellulose Ethers Production Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* and in Appendix 5 of the reports: *Technical Support Document for Acute Risk Screening Assessment,* both are available in the docket for this rulemaking.

[14] 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*.

[15] 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*).

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.'' [16] *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 one 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).

As part of the Part 1 survey instructions, the EPA requested that facilities provide acute emissions estimates. For the MVP source category, acute emissions estimates were available for four of the five facilities. One of the four facilities was missing an acute emission estimate for COS for one process, but we were able to calculate an estimate for COS by applying the same acute multiplier for CS_2 for the same process at this facility. We developed separate acute multipliers for MVP process operations and MVP storage tanks to estimate acute emissions for the fifth facility. We estimated the average acute multipliers for MVP process operations and MVP storage tanks to be approximately 1.9 and 1.1, respectively.

For the CEP source category, acute emissions estimates were available for 38 percent of the records in the CEP risk modeling file. The remaining 62 percent of records had no acute emissions estimates. For CEP sources without acute emissions data, we reviewed permits and extracted maximum hourly rate data if available, and assumed the acute multiplier would be 10 if no data were available.

A further discussion of why these factors were chosen can be found in the memorandum, *Preparation of the Residual Risk Modeling Input File for Subpart UUUU,* available in the docket for this rulemaking.

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. This was the case for the CEP source category. 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. This was required for the MVP source category, in which the data refinements employed consisted of ensuring that the locations where the maximum HQ occurred were off facility property and where the public could potentially be exposed. These refinements are discussed more fully in the *Residual Risk Assessment for the Miscellaneous Viscose Processes Source Category in Support of the 2019 Risk and Technology Review Proposed Rule* which is available in the docket for this source category.

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 categories 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 MVP source category, we did not identify emissions of any PB–HAP or lead compounds. Because we did not identify PB–HAP emissions, no further evaluation of multipathway risk was conducted for this source category.

For the CEP source category, we identified PB–HAP emissions of cadmium compounds, arsenic compounds, lead compounds, and mercury 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 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 polycyclic organic matter (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

[16] *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.*

screening assessment, which we call the Tier 2 screening assessment. The Tier 2 screening assessment separates the Tier 1 combined 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 of fish [17]) and locally grown or raised foods (90th percentile consumption of locally grown or raised foods for the farmer and gardener scenarios [18]). 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.[19] 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 for CEP, see the *Residual Risk Assessment for the Cellulose Ethers Production Source Category in Support of the Risk and Technology Review 2019 Proposed 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 HCl and 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*

[17] Burger, J. 2002. Daily consumption of wild fish and game: Exposures of high end recreationists. *International Journal of Environmental Health Research* 12:343–354.

[18] U.S. EPA. *Exposure Factors Handbook 2011 Edition (Final).* U.S. Environmental Protection Agency, Washington, DC, EPA/600/R–09/052F, 2011.

[19] 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.

Cellulose Ethers Production 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 MVP and CEP source categories emitted any of the environmental HAP. For the CEP source category, we identified emissions of cadmium compounds, arsenic compounds, lead compounds, mercury compounds, and 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. For the MVP source category, we did not identify emissions of any of the eight environmental HAP included in the screen. Because we did not identify environmental HAP emissions from the MVP source category, no further evaluation of environmental risk was conducted for that category.

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 square kilometers (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 Cellulose Ethers Production 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 proposal. 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 Viscose Processes Source Category in Support of the Risk and Technology Review 2019 Proposed Rule and the Residual Risk Assessment for the Cellulose Ethers Production 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 datasets, 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 Viscose Processes Source Category in Support of the Risk and Technology Review 2019 Proposed Rule* and the *Residual Risk Assessment for the Cellulose Ethers Production Source Category in Support of the Risk and Technology Review 2019 Proposed Rule,* which are 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 Datasets

Although the development of the RTR emissions datasets 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. Some of the emission estimates considered in this analysis 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'' (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.[20] 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

[20] IRIS glossary (*https://ofmpub.epa.gov/sor_internet/registry/termreg/searchandretrieve/glossariesandkeywordlists/search.do?details=&glossaryName=IRIS%20Glossary*).

low as zero; however, in other circumstances the risk could be greater.[21] 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,[22] 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 the CEP 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 the MVP source category, we have identified appropriate human health effect dose-response values for all pollutants.

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 emissions 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 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 HCl). 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.[23]

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.

[21] 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.

[22] 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.

[23] 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.

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?

1. MVP Source Category

a. Chronic Inhalation Risk Assessment Results

Table 2 of this preamble provides an overall summary of the inhalation risk results of the MVP source category. The results of the chronic baseline inhalation cancer risk assessment indicate that, based on estimates of current actual and allowable emissions, the MIR posed by the source category was estimated to be less than 1-in-1 million. The risk driver is acetaldehyde emissions from viscose process equipment. The total estimated cancer incidence from MVP emission sources based on actual and allowable emission levels is 0.000006 excess cancer cases per year, or one case in every 167,000 years. Emissions of acetaldehyde contributed 100 percent to this cancer incidence. Based upon actual or allowable emissions, no people were exposed to cancer risks greater than or equal to 1-in-1 million.

The maximum chronic noncancer HI (TOSHI) values for the MVP source category, based on actual and allowable emissions, were estimated to be less than 1. Based upon actual and allowable emissions, respiratory risks were driven by CS_2 emissions from viscose process equipment.

TABLE 2—MVP INHALATION RISK ASSESSMENT RESULTS [1]

Risk assessment	Number of facilities	Maximum individual cancer risk (in 1 million) [2]	Estimated population at increased risk of cancer ≥1-in-1 million	Estimated annual cancer incidence (cases per year)	Maximum chronic noncancer TOSHI [3]	Maximum refined acute noncancer HQ [4]
Baseline Actual Emissions						
Source Category	5	<1	0	0.000006	0.05	0.4
Facility-Wide	5	1	0	0.00006	0.05	.....

TABLE 2—MVP INHALATION RISK ASSESSMENT RESULTS [1]—Continued

Risk assessment	Number of facilities	Maximum individual cancer risk (in 1 million) [2]	Estimated population at increased risk of cancer ≥1-in-1 million	Estimated annual cancer incidence (cases per year)	Maximum chronic noncancer TOSHI [3]	Maximum refined acute noncancer HQ [4]
Baseline Allowable Emissions						
Source Category	5	<1	0	0.000006	0.05	

[1] Based on actual, allowable, and facility-wide emissions.
[2] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category and facility-wide.
[3] Maximum TOSHI. The target organ with the highest TOSHI for the MVP source category is the respiratory system.
[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 of 0.4 is based upon an acute ERPG–1.

b. Screening Level Acute Risk Assessment Results

Worst-case acute HQs were calculated for every HAP for which there is an acute health benchmark using actual emissions. The maximum refined off-site acute noncancer HQ value for the MVP source category was less than 1 from CS_2 emissions (based on the acute (1-hour) ERPG–1 for CS_2). It is also important to note that the highest HQ is based on hourly emissions multiplier for each emission process group ranging from 1 to 37 times the annual emissions rate. Acute HQs are not calculated for allowable or whole facility emissions.

c. Multipathway Risk Screening Results

The five facilities modeled in the MVP source category did not report any emissions of lead compounds, carcinogenic PB–HAP (arsenic, dioxin/furans, and POM compounds) or any noncarcinogenic PB–HAP (cadmium and mercury). Since, there are no PB–HAP or lead compounds identified in the emissions inventory for this source category, no further assessment of multipathway risk was conducted.

d. Environmental Risk Screening Results

The five facilities modeled in the MVP source category did not report any emissions of lead compounds, PB–HAP, or any acid gases (HCl or HF). Since there are no ecological HAP identified in the emissions inventory for this source category, no further assessment of ecological risk was conducted.

e. Facility-Wide Risk Results

Results of the assessment of facility-wide emissions indicate that none of the five facilities have a facility-wide MIR cancer risk greater than 1-in-1 million (refer to Table 2). The maximum facility-wide cancer risk is 1-in-1 million, driven by formaldehyde, cadmium compounds, and nickel compounds from a non-category fugitive area source. The total estimated cancer incidence from the whole facility is 0.00006 excess cancer cases per year, or one case in every 16,700 years, with zero people estimated to have cancer risks greater than 1-in-1 million. The maximum facility-wide chronic noncancer TOSHI is estimated to be less than 1, driven by source category emissions of CS_2 from viscose process equipment.

2. CEP Source Category

a. Chronic Inhalation Risk Assessment Results

Table 3 of this preamble provides an overall summary of the inhalation risk results of the CEP source category. The results of the chronic baseline inhalation cancer risk assessment indicate that, based on estimates of current actual and allowable emissions, the MIR posed by the source category was estimated to be 80-in-1 million. The risk driver is from emissions of ethylene oxide from cellulose ether process equipment used to produce hydroxyethyl cellulose (HEC). The total estimated cancer incidence from CEP emission sources based on actual and allowable emission levels is 0.01 excess cancer cases per year, or one case in every 100 years. Emissions of ethylene oxide contributed 99 percent to this cancer incidence based upon actual emissions. Based upon actual or allowable emissions, 105,000 people were exposed to cancer risks greater than or equal to 1-in-1 million. The maximum chronic noncancer HI (TOSHI) values for the source category, based on actual and allowable emissions, were estimated to be less than 1. Based upon actual and allowable emissions, respiratory risks were driven by chlorine emissions from cellulose ether process equipment.

TABLE 3—CEP INHALATION RISK ASSESSMENT RESULTS [1]

Risk assessment	Number of facilities	Maximum individual cancer risk (in 1 million)	Estimated population at increased risk of cancer ≥1-in-1 million	Estimated annual cancer incidence (cases per year)	Maximum chronic noncancer TOSHI [3]	Maximum screening acute noncancer HQ [4]
Baseline Actual Emissions						
Source Category	3	80	105,000	0.01	0.06	0.1
Facility-Wide	3	[2] 500	570,000	0.04	[5] 4	

TABLE 3—CEP INHALATION RISK ASSESSMENT RESULTS [1]—Continued

Risk assessment	Number of facilities	Maximum individual cancer risk (in 1 million)	Estimated population at increased risk of cancer ≥1-in-1 million	Estimated annual cancer incidence (cases per year)	Maximum chronic noncancer TOSHI [3]	Maximum screening acute noncancer HQ [4]
Baseline Allowable Emissions						
Source Category	3	80	112,000	0.01	0.2	

[1] Based on actual, allowable, and whole facility emissions.
[2] Maximum individual excess lifetime cancer risk due to ethylene oxide emissions from outside of the source category identified as releases from holding ponds, storage tanks, tank truck unloading, and equipment/vent releases.
[3] Maximum TOSHI. The target organ with the highest TOSHI for the CEP source category is the respiratory system.
[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.
[5] Maximum TOSHI from whole facility are from chlorine emissions from non-category sources (classified as other). The target organ with the highest TOSHI is the respiratory system.

b. Screening Level Acute Risk Assessment Results

Worst-case acute HQs were calculated for every HAP for which there is an acute health benchmark using actual emissions. The maximum refined off-site acute noncancer HQ value for the source category was less than 1 from methanol emissions from cellulose ether process equipment (based on the acute (1-hour) REL for methanol). It is also important to note that the highest HQ is based on an hourly emissions multiplier of 10 times the annual emissions rate. Acute HQs are not calculated for allowable or whole facility emissions.

c. Multipathway Risk Screening Results

One facility within the CEP source category reported emissions of multipathway pollutants of lead compounds, carcinogenic PB–HAP (arsenic), and noncarcinogenic PB–HAP (cadmium and mercury). Results of the worst-case Tier 1 screening analysis indicate that PB–HAP emissions (based on estimates of actual emissions) emitted from the facility exceeded the screening values for the carcinogenic PB–HAP (arsenic compounds) by a factor of 2 and for the noncarcinogenic PB–HAP (cadmium and mercury) was equal to the Tier 1 screening value of 1. Based on this Tier 1 screening assessment for carcinogens, the arsenic, cadmium, and mercury emission rates for the single facility were below our level of concern. In evaluating the potential for multipathway effects from emissions of lead, we compared modeled annual lead concentrations to the secondary NAAQS for lead (0.15 μg/m^3). The highest annual average lead concentration of 0.00001 μg/m^3 is well below the NAAQS for lead, indicating a low potential for multipathway impacts of concern due to lead.

d. Environmental Risk Screening Results

As described in section III.A of this preamble, we conducted an environmental risk screening assessment for the CEP source category. The three facilities modeled in the source category reported emissions of lead compounds and the above PB–HAP, as well as an acid gas (HCl). In the Tier 1 screening analysis for PB–HAP, we did not find any exceedances of the ecological benchmarks evaluated. For lead, we did not estimate any exceedances of the secondary lead NAAQS. For HCl, the average modeled concentration around each facility (*i.e.,* the average concentration of all off-site data points in the modeling domain) did not exceed any ecological benchmark. In addition, each individual modeled concentration of HCl (*i.e.,* each off-site data point in the modeling domain) was below the ecological benchmarks for all facilities. Based on the results of the environmental risk screening analysis, we do not expect an adverse environmental effect as a result of HAP emissions from this source category.

e. Facility-Wide Risk Results

Results of the assessment of facility-wide emissions indicate that all three facilities modeled have a facility-wide MIR cancer risk greater than 1-in-1 million (refer to Table 3). The maximum facility-wide cancer risk is 500-in-1 million, mainly driven by ethylene oxide from sources outside the source category, including holding ponds, storage tanks, tank truck unloading, and equipment/vent releases. The next highest cancer risk was 80-in-1 million, based on whole facility emissions of ethylene oxide. The total estimated cancer incidence from the whole facility is 0.04 excess cancer cases per year, or one case in every 25 years, with 570,000 people estimated to have cancer risks greater than 1-in-1 million and 2,000 people with risks greater than 100-in-1 million. The maximum facility-wide chronic noncancer TOSHI is estimated to be equal to 4, driven by emissions of chlorine from non-category sources.

3. What demographic groups might benefit from this regulation?

To examine the potential for any environmental justice issues that might be associated with the MVP and CEP source categories, we performed a demographic analysis, which is an assessment of risks 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 risks from the MVP and CEP source categories across different demographic groups within the populations living near facilities.

For the MVP source category demographic analysis, the 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. When examining the risk levels of those exposed to emissions from MVP facilities, we find that no one is exposed to a cancer risk at or above 1-in-1 million or to a chronic noncancer TOSHI greater than 1. The methodology and the results of the MVP demographic analysis are presented in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Miscellaneous Viscose Processes Facilities,* available in the docket for this action.

The results of the CEP demographic analysis are summarized in Table 4 below. 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 CEP facilities.

TABLE 4—CEP DEMOGRAPHIC RISK ANALYSIS RESULTS

[CEP Source Category Demographic Assessment Results—50 km Study Area Radius]

		Population with cancer risk greater than or equal to 1-in-1 million	Population with hazard index greater than 1
	Nationwide	Source Category	
Total Population	317,746,049	104,572	0
	White and Minority by Percent		
White	62	51	0
Minority	38	49	0
	Minority by Percent		
African American	12	37	0
Native American	0.8	0.3	0
Hispanic or Latino (includes white and nonwhite)	18	7	0
Other and Multiracial	7	4	0
	Income by Percent		
Below Poverty Level	14	12	0
Above Poverty Level	86	88	0
	Education by Percent		
Over 25 and without a High School Diploma	14	16	0
Over 25 and with a High School Diploma	86	84	0
	Linguistically Isolated by Percent		
Linguistically Isolated	6	1	0

The results of the CEP source category demographic analysis indicate that emissions from the source category expose approximately 104,572 people to a cancer risk at or above 1-in-1 million and approximately zero people to a chronic noncancer TOSHI greater than 1. The percentages of the at-risk population in three demographic groups (African American, above poverty level, and over 25 without highs school diploma) are greater than their respective nationwide percentages. The methodology and the results of the CEP demographic analysis are presented in the technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Cellulose Ethers Production 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 the MVP and CEP source categories. In determining whether risks are acceptable, the EPA considered all available health information and risk estimation uncertainty, as described above. The results for the MVP and CEP source categories indicate that both the actual and allowable inhalation cancer risks to the individual most exposed are below the presumptive limit of acceptability of 100-in-1 million.

The results for the MVP source category indicate that both the actual and allowable inhalation cancer risks to the individual most exposed are less than 1-in-1 million, well below the presumptive limit of acceptability of 100-in-1 million. The MVP source category also has chronic noncancer inhalation exposures to HAP with health benchmarks with TOSHI values less than 1 (0.05), 20 times below an exposure that the EPA has determined is without appreciable risk of adverse health effects. Exposures to HAP associated with acute noncancer health effects also are below levels of health concern with no HAP exposures resulting in an HQ greater than 1 (0.4) based upon the 1-hour REL.

The results for the CEP source category indicate that both the actual and allowable inhalation cancer risks to the individual most exposed are less or equal to 80-in-1 million, below the presumptive limit of acceptability of

100-in-1 million. EPA estimates emissions from the 3 facilities in the source category would result in a cancer incidence of 0.01 excess cancer cases per year, or one case every 100 years based upon actual emissions from the source category. This incidence rate is solely from 1 facility emitting ethylene oxide. We estimate 105,000 individuals are exposed to an inhalation cancer risk equal to or greater than 1-in-1 million from this one facility. Inhalation exposures to HAP associated with chronic noncancer health effects result in a TOSHI of 0.06 based on actual emissions, 16 times below an exposure that the EPA has determined is without appreciable risk of adverse health effects. Exposures to HAP associated with acute noncancer health effects also are below levels of health concern with no HAP exposures resulting in an HQ greater than 1 (0.1) based upon the 1-hour REL.

Multipathway screen values for the CEP source category are below a level of concern for both carcinogenic and non-carcinogenic PB–HAP as well as emissions of lead compounds. Maximum cancer and noncancer risk due to ingestion exposures estimated using Tier 1 health-protective risk screening assumptions are below 2-in-1 million for cancer and equal to 1 based upon Tier 1 noncancer screen values for mercury.

Taking into account this information, the EPA proposes that the risks remaining after implementation of the existing MACT standards for the CEP and MVP source categories are acceptable.

2. Ample Margin of Safety Analysis

The inhalation cancer risk from the MVP source category is less than 1-in-1 million and the chronic noncancer TOSHI due to inhalation exposures is less than 1. Additionally, the results of the MVP acute screening analysis showed that risks were below a level of concern. Because we are proposing that risks from the MVP source category are acceptable and below the thresholds of concern, we are proposing that the current MACT standards applicable to the MVP source category provide an ample margin of safety to protect public health.

Although we are proposing that the risks from the three modeled facilities within the CEP source category are acceptable, the MIR for actual and allowable emissions are 80-in-1 million caused by ethylene oxide emissions from the HEC process. We considered whether the MACT standards applicable to these emission points in particular, as well as all the current MACT standards applicable to this source category, provide an ample margin of safety to protect public health. As directed by CAA section 112(f)(2), we conducted an analysis to determine if the current emission standards provide an ample margin of safety to protect public health. Under the ample margin of safety analysis, we evaluated the cost and feasibility of available control technologies and other measures (including those considered under the technology review) that could be applied to the CEP source category to further reduce the risks (or potential risks) due to emissions of HAP identified in the risk assessment.

The HEC production process utilizes purified wood pulp or cotton linters to produce alkali cellulose by adding a caustic solution. The alkali cellulose is then reacted with ethylene oxide to produce HEC, which is a thickening agent used in cosmetics, cleaning solutions, and other household products. This process utilizes extended cook-out procedures to reduce the amount of ethylene oxide not consumed during the HEC reaction in conjunction with an add-on control device. This process is subject to standard 3 in Table 1 to Subpart UUUU of Part 63—Emission Limits and Work Practice Standards, which requires a 99-percent reduction in HAP emissions.

As discussed in section IV.C below and in the memo titled *Technology Review for the Cellulose Products Manufacturing Industry—Proposed Rule* in the docket for this rulemaking, we did not identify any developments in processes, practices, or controls for the CEP source category during our analysis for this proposal. CEP facilities use scrubbers to control emissions of ethylene oxide, as well as other HAP, and these devices are capable of achieving high levels of emission reductions. We did not identify additional technologies capable of further reducing emissions, or improvements to existing technologies that would result in further reduction of emissions. Given that we did not identify any developments in practices, processes, or control technologies and the acceptable risks remaining after implementation of the NESHAP, we are proposing that the existing standards for the CEP source category provide an ample margin of safety to protect public health, and revision of the standards is not required.

Lastly, regarding the facility-wide risks due to ethylene oxide (described above), which are due primarily to emission sources that are not part of the CEP source category, we intend to evaluate these facility-wide estimated emissions and risks further and may address them in a separate future action, as appropriate. In particular, the EPA is addressing ethylene oxide in response to the results of the latest National Air Toxics Assessment (NATA) released in August 2018, which identified the chemical as a potential concern in several areas across the country. (NATA is the Agency's nationwide air toxics screening tool, designed to help the EPA and state, local, and tribal air agencies identify areas, pollutants, or types of sources for further examination.) The latest NATA estimates that ethylene oxide significantly contributes to potential elevated cancer risks in some census tracts across the U.S. (less than 1 percent of the total number of tracts). These elevated risks are largely driven by an EPA risk value that was updated in late 2016. The EPA will work with industry and state, local, and tribal air agencies as the EPA takes a two-pronged approach to address ethylene oxide emissions: (1) Reviewing and, as appropriate, revising CAA regulations for facilities that emit ethylene oxide—starting with air toxics emissions standards for miscellaneous organic chemical manufacturing facilities and commercial sterilizers; and (2) conducting site-specific risk assessments and, as necessary, implementing emission control strategies for targeted high-risk facilities. The EPA will post updates on its work to address ethylene oxide on its website at: *https://www.epa.gov/ethylene-oxide*.

3. Adverse Environmental Effect

For the MVP source category, we did not identify emissions of any environmental HAP. Because we did not identify any environmental HAP emissions, we expect no adverse environmental effects and are proposing that more stringent standards are not necessary to prevent an adverse environmental effect.

For the CEP source category, our analyses showed no exceedances of ecological benchmarks and, therefore, we do not expect there to be an adverse environmental effect as a result of HAP emissions from this source category. We are proposing that it is not necessary to set a more stringent standard to prevent an adverse environmental effect.

C. What are the results and proposed decisions based on our technology review?

As described in section III.B of this preamble, our technology review focused on identifying developments in practices, processes, and control technologies for control of HAP emissions from CEP and MVP facilities.

In conducting the technology review, we reviewed sources of information on practices, processes, and control technologies that were not considered during the development of the Cellulose Products Manufacturing NESHAP, as well as looked for information on improvements in practices, processes, and control technologies that have occurred since the development of the NESHAP. The review included reviewing the industry responses to Part 2 of the sector survey, a search of the RBLC database and the EPA's ADI, reviews of air permits, and a review of relevant literature. After reviewing the information from the aforementioned sources, we did not identify any developments in practices, processes, or control technologies to reduce HAP emissions from the CEP and MVP source categories. Therefore, we are proposing that revisions to the NESHAP are not necessary based on our review under CAA section 112(d)(6).

While these searches did not result in a finding of any new technologies, the results of the ADI search suggest that the EPA could add biofilter effluent conductivity operating limits and parameter monitoring as an alternative to biofilter pH operating limits and monitoring. This is discussed in section IV.D below. Additional details of our technology review can be found in the memorandum titled *Technology Review for the Cellulose Products Manufacturing Industry—Proposed Rule,* which is available in the docket for this action.

D. What other actions are we proposing?

In addition to the proposed actions described above, we are proposing additional revisions to the NESHAP. We are proposing revisions to the SSM provisions of the MACT rule in order to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008), which vacated two provisions that exempted sources from the requirement to comply with otherwise applicable CAA section 112(d) emission standards during periods of SSM. We also are proposing various other changes, including electronic submittal of notifications, compliance reports, and performance test reports; addition of periodic emissions testing requirements and incorporation by reference (IBR) of three test methods (listed in section IV.D.5 below); and various technical and editorial changes. Our analyses and proposed changes related to these issues are discussed below.

1. SSM

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 63.5515 and Table 10 to Subpart UUUU of Part 63 (Applicability of General Provisions to Subpart UUUU). 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 is 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 proposing the standards in this rule, the EPA has taken into account startup and shutdown periods and, for the reasons explained below, has not proposed alternate emission standards for those periods. However, the EPA is proposing alternative operating limits for periods of startup and shutdown for thermal oxidizers and scrubbers to address issues with parameter monitoring during these periods.

As discussed in the memorandum titled *Summary of the Startup and Shutdown Data for Cellulose Products Manufacturing,* we requested data regarding periods of startup and shutdown as part of the 2018 survey. Facilities did not indicate difficulty meeting the emission standards as a result of startup or shutdown events. However, facilities did indicate difficulty meeting thermal oxidizer and scrubber operating parameters during these periods. This is not unexpected because these periods reflect non-steady state operations and production. For sources equipped with thermal oxidizers, survey responses indicated that they could not meet the setpoint temperature during periods of startup. This is likely due to a temperature drop when the HAP-laden air stream is initially added to the oxidizer. Survey responses indicated that, for sources equipped with scrubbers (wet, water, and caustic), pressure drop, liquid-to-gas ratios, and scrubber liquid flow rate parameter limits could not be met during startup and shutdown. This is not unexpected since pluggage can occur during non-stable conditions, limiting the liquid flow rate and subsequently reducing the pressure drop across the scrubber due to the lack of liquid flow. Consequently, the EPA is proposing the following alternative operating parameter options to demonstrate continuous compliance and ensure proper control device operations during periods of startup and shutdown:

- Wet or caustic scrubber: As an alternative to pressure drop, liquid flow rate, or liquid-to-gas ratio, confirm that the scrubber is operating properly prior to emission unit startup and continue operation until emission unit shutdown is complete. Appropriate startup and shutdown operating parameters may be based on equipment design, manufacturer's recommendations, or other site-specific operating values established for normal operating periods. Do not include these parameters when determining the daily average.
- Thermal oxidizer: As an alternative to the minimum firebox temperature, confirm that the oxidizer is operating properly prior to emission unit startup (*e.g.,* firebox temperature has reached the setpoint temperature established in the most recent stack test). Do not include these parameters when determining the daily average.

The survey responses for other control devices did not indicate any issues meeting operating parameters during periods of startup and shutdown. One additional survey response requested the addition of a shutdown work practice for process lines and equipment venting. This response suggested that, in the event of a shutdown, it would be appropriate to purge the process gas and/or liquid to an emission control device, recovery device, or return to the process. Additionally, the response suggested that gas streams may be emitted if they contain less than 50 pounds of volatile organic compounds (VOC) or the lower explosive limit is less than 10 percent. The Agency is requesting comment to determine if this

would be an appropriate work practice. Emissions from venting due to shutdown should be accounted for in the compliance demonstration in the semiannual compliance report.

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 (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. A malfunction is a failure of the source to perform in a ''normal or usual manner'' and no statutory language compels the EPA to consider such events in setting CAA section 112 standards.

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. For example, if an air pollution control device with 99-percent removal goes off-line as a result of a malfunction (as might happen if, for example, the bags in a baghouse catch fire) and the emission unit is a steady state type unit that would take days to shut down, the source would go from 99-percent control to zero control until the control device was repaired. The source's emissions during the malfunction would be 100 times higher than during normal operations. As such, the emissions over a 4-day malfunction period would exceed the annual emissions of the source during normal operations. As this example illustrates, accounting for malfunctions could lead to standards that are not reflective of (and significantly less stringent than) levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret CAA section 112 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 112 and is a reasonable interpretation of the statute.

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 malfunction that result in releases from pressure relief devices 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. We also encourage commenters to provide any such information.

The EPA anticipates that it is unlikely that a malfunction will result in a violation of the standard for this source category. For example, facilities using thermal oxidizers as pollution control equipment indicated in the 2018 survey that interlocks would shut down the process if an oxidizer malfunction occurred, and facilities may also have back-up oxidizers that could be used to treat the emissions. The MACT standards are based on a percent reduction of HAP over a 6-month rolling period per group of equipment. Therefore, the malfunction of a singular piece of equipment in a single month over this period is unlikely to result in an exceedance of the standard. The EPA is soliciting information on the type of events that constitute a malfunction event, and best practices and best level of emission control during malfunction events. The EPA is also soliciting information on the cost savings associated with these practices. In addition, the EPA is soliciting specific supporting data on HAP emissions during malfunction events for the MVP and CEP source categories, including the cause of malfunctions, the frequency of malfunctions, the duration of malfunctions, and the estimate of HAP emitted during each malfunction.

In the unlikely 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 EPA would also consider whether the source's failure to comply with the CAA section 112(d) standard was, in fact, sudden, infrequent, not reasonably preventable

and was not instead caused in part by poor maintenance or careless operation. 40 CFR 63.2 (definition of malfunction).

If the EPA determines in a particular case that an enforcement action against a source for violation of an emission standard is warranted, the source can raise any and all defenses in that enforcement action and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In summary, the EPA interpretation of the CAA and, in particular, section 112, is reasonable and encourages practices that will avoid malfunctions. Administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations. *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (2016).

a. General Duty

We are proposing to revise the General Provisions table (Table 10) entry for 40 CFR 63.6(e)(1) and (2) by redesignating it as 40 CFR 63.6(e)(1)(i) and changing the ''yes'' in column 4 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 63.5515 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 63.5515 does not include that language from 40 CFR 63.6(e)(1).

We are also proposing to revise the General Provisions table (Table 10) by adding an entry for 40 CFR 63.6(e)(1)(ii) and including a ''no'' in column 4. 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 requirement being added at 40 CFR 63.5515.

b. SSM Plan

We are proposing to revise the General Provisions table (Table 10) entry for 40 CFR 63.6(e)(3) by changing the ''yes'' in column 4 to a ''no.'' Generally, the paragraphs under 40 CFR 63.6(e)(3) require development of an SSM plan and specify SSM recordkeeping and reporting requirements 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 requirements 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 4 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 *Sierra Club* vacated the exemptions contained in this provision and held that the CAA requires that some CAA section 112 standard 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) by redesignating it as 40 CFR 63.6(h)(1) and changing the ''yes'' in column 4 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 CAA section 112 standard apply continuously. Consistent with *Sierra Club,* the EPA is proposing to revise standards in this rule to apply at all times.

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 4 to a ''no.'' Section 63.7(e)(1) describes performance testing requirements. The EPA is instead proposing to add a performance testing requirement at 40 CFR 63.5535. The performance testing requirements 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 do not allow performance testing during startup or shutdown. 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 the owner or operator to 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. Section 63.7(e) requires that the owner or operator make available to the Administrator such records ''as may be necessary to determine the condition of the performance test'' available to the Administrator upon request but does not specifically require the information to be recorded. The regulatory text the EPA is proposing to add to this provision builds on that requirement and makes explicit the requirement to record the information.

e. Monitoring

We are proposing to revise the General Provisions table (Table 10) entries for 40 CFR 63.8(c)(1)(i) and (iii) by changing the ''yes'' in column 4 to a ''no.'' The cross-references to the general duty and SSM plan requirements in those subparagraphs are not necessary in light of other requirements of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the requirements of a quality control program for monitoring equipment (40 CFR 63.8(d)).

We are proposing to revise the General Provisions table (Table 10) by adding an entry for 40 CFR 63.8(d)(3) and including a ''no'' in column 4. The final sentence in 40 CFR 63.8(d)(3) refers to the General Provisions' SSM plan requirement which is no longer applicable. The EPA is proposing to add to the rule at Table 9 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. Recordkeeping

We are proposing to revise the General Provisions table (Table 10) entry for 40 CFR 63.10(b)(2)(i) through

(iv) by redesignating it as 40 CFR 63.10(b)(2)(i) and changing the ''yes'' in column 4 to a ''no.'' Section 63.10(b)(2)(i) describes the recordkeeping requirements during startup and shutdown. We are instead proposing to add recordkeeping requirements to Table 9. When a source is subject to a different standard during startup and shutdown, it will be important to know when such startup and shutdown periods begin and end in order to determine compliance with the appropriate standard. Thus, the EPA is proposing to add language to Table 9 requiring that sources subject to an emission standard during startup or shutdown that differs from the emission standard that applies at all other times must report the date, time, and duration of such periods. The EPA is also proposing that sources would be required to record information supporting the operating parameter alternatives, including (1) an indication that thermal oxidizers reach set point temperature prior to emission unit startup, and (2) an indication that scrubbers are properly operating prior to emission unit startup. The proposed records are required to demonstrate that alternative operating parameter limits have been met during periods of startup and shutdown.

We are proposing to revise the General Provisions table (Table 10) by adding an entry for 40 CFR 63.10(b)(2)(ii) and including a ''no'' in column 4. Section 63.10(b)(2)(ii) describes the recordkeeping requirements during a malfunction. The EPA is proposing to add such requirements to Table 9. The regulatory text we are proposing to add differs from the General Provisions it is replacing in that the General Provisions requires the creation and retention of a record of the occurrence and duration of each malfunction of process, air pollution control, and monitoring equipment. The EPA is proposing that this requirement 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 Table 9 a requirement that sources 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 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 sources keep records of this information to ensure that there is adequate information to allow the EPA 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) by adding an entry for 40 CFR 63.10(b)(2)(iv) and including a ''no'' in column 4. When applicable, the provision requires sources to record actions taken during SSM events when actions were inconsistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required. The requirement previously applicable under 40 CFR 63.10(b)(2)(iv)(B) to record actions to minimize emissions and record corrective actions is now applicable by reference to Table 9.

We are proposing to revise the General Provisions table (Table 10) by adding 40 CFR 63.10(b)(2)(v) to the entry for 40 CFR 63.10(b)(2)(iv), which includes a ''no'' in column 4. When applicable, the provision requires sources to record actions taken during SSM events to show that actions taken were consistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required.

We are proposing to revise the General Provisions table (Table 10) by adding an entry for 40 CFR 63.10(c)(15) and including a ''no'' in column 4. The EPA is proposing that 40 CFR 63.10(c)(15) no longer apply. When applicable, the provision allows an owner or operator to use the affected source's startup, shutdown, and malfunction plan or records kept to satisfy the recordkeeping requirements of the startup, shutdown, and malfunction plan, specified in 40 CFR 63.6(e), to also satisfy the requirements of 40 CFR 63.10(c)(10) through (12). The EPA is proposing to eliminate this requirement because SSM plans would no longer be required, and, therefore, 40 CFR 63.10(c)(15) no longer serves any useful purpose for affected units.

g. Reporting

We are proposing to revise the General Provisions table (Table 10) entry for 40 CFR 63.10(d)(5) by redesignating it as 40 CFR 63.10(d)(5)(i) and changing the ''yes'' in column 4 to a ''no.'' Section 63.10(d)(5)(i) describes the periodic reporting requirements for startups, shutdowns, and malfunctions. To replace the General Provisions reporting requirement, the EPA is proposing to add reporting requirements to 40 CFR 63.5580 and Table 8. The replacement language differs from the General Provisions requirement in that it eliminates periodic SSM reports as a stand-alone report. We are proposing language that requires sources that fail to meet an applicable standard at any time to report the information concerning such events in the semiannual 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 requirement 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 met the general duty to minimize emissions during a failure to meet an applicable standard.

We will no longer require owners or operators to determine whether actions taken to correct a malfunction are consistent with an SSM plan, because plans would no longer be required. The proposed amendments, therefore, eliminate the cross-reference to 40 CFR 63.10(d)(5)(i) that contains the description of the previously required SSM report format and submittal schedule from this section. These specifications are no longer necessary because the events will be reported in otherwise required reports with similar format and submittal requirements.

We are proposing to revise the General Provisions table (Table 10) by adding an entry for 40 CFR 63.10(d)(5)(ii) and including a ''no'' in column 4. Section 63.10(d)(5)(ii) describes an immediate report for startups, shutdown, and malfunctions when a source failed to meet an applicable standard but did not follow the SSM plan. We will no longer require owners and operators to report when actions taken during a startup, shutdown, or malfunction were not

consistent with an SSM plan, because plans would no longer be required.

2. 5-Year Periodic Emissions Testing

As part of an ongoing effort to improve compliance with various federal air emission regulations, the EPA reviewed the testing and monitoring requirements of 40 CFR part 63, subpart UUUU and is proposing the following change. The EPA is proposing to require facilities that use non-recovery control devices to conduct periodic air emissions performance testing, with the first of the periodic performance tests to be conducted within 3 years of the effective date of the revised standards and thereafter no longer than 5 years following the previous test. Requiring periodic performance tests would serve as a check on the accuracy of facilities' mass balance calculations and on the efficiency of the control devices used to achieve compliance with the standards. Periodic performance tests would ensure that control devices are properly maintained over time, thereby reducing the potential for acute emissions episodes. We specifically request comment on the proposed repeat testing requirements.

3. Electronic Reporting

Through this action, we are proposing that owners and operators of cellulose products manufacturing facilities submit electronic copies of required initial notifications, notifications of compliance status, performance test reports, performance evaluation reports, and semiannual 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–2018–0415. 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 [24] 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 initial notifications and notifications of compliance status, the proposed rule requires that owners and operators submit notifications as PDFs to CEDRI. For semiannual 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 template for these reports is included in the docket for this rulemaking.[25] The EPA specifically requests comment on the content, layout, and overall design of the template.

The initial notifications, notifications of compliance status, performance test reports, performance evaluation reports, and semiannual reports are required to be submitted according to the deadlines specified in 40 CFR 63.5580. 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 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 63.5580. 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 63.5580. 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 requirements 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 [26] to implement Executive Order 13563 and is in keeping with the EPA's Agency-wide policy [27] developed in response to the White House's Digital Government Strategy.[28] 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–2018–0415.

4. Biofilter Effluent Conductivity

On November 17, 2006, Viskase Companies, Inc., a company subject to 40 CFR part 63, subpart UUUU, which manufactures cellulose food casings, submitted a request to the EPA to monitor biofilter effluent conductivity as an alternative to effluent pH for the biofilter control devices at their facilities in Osceola, Arkansas, and Loudon, Tennessee. The request stated that pH is in a range such that effluent conductivity would provide a more accurate operating limit:

[24] *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert.*

[25] See *Subpart_UUUU_Semiannual_Report.xlsx,* available at Docket ID No. EPA–HQ–OAR–2018–0415.

[26] EPA's *Final Plan for Periodic Retrospective Reviews,* August 2011. Available at: *https://www.regulations.gov/document?D=EPA-HQ-OA-2011-0156-0154.*

[27] *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.*

[28] *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.*

For strong acids and bases, pH values are not very meaningful indicators of the concentration. The measurement uncertainty is large because pH is a logarithmic scale. Conductivity measurements are more suitable than pH measurements for producing accurate and reproducible estimates of the concentrations of free acids and bases because the relationship between conductivity and concentration is almost linear over a range of concentrations.

Based on the information provided by Viskase, the EPA conditionally approved the monitoring request to establish and monitor an effluent conductivity operating limit for the biofilter units and stated that the effluent conductivity operating limit must be based on a performance test and can be supplemented by engineering assessments and/or manufacturer's recommendations.[29]

In addition to granting the alternative monitoring request per 40 CFR 63.8(f), the EPA is also proposing an amendment to 40 CFR part 63, subpart UUUU, to add biofilter effluent conductivity as an alternative parameter to pH. Specifically, the EPA is proposing to revise the operating limits table (Table 2 to Subpart UUUU of Part 63) to add biofilter effluent conductivity to the list of biofilter operating limits, revise the performance testing requirements in 40 CFR 63.5535 to add biofilter effluent conductivity to the list of parameters for which operating limits must be established during the compliance demonstration, and revise the continuous compliance with operating limits table (Table 6 to Subpart UUUU of Part 63) to add biofilter effluent conductivity to the list of parameters to monitor to demonstrate continuous compliance.

5. IBR Under 1 CFR Part 51

The EPA is proposing regulatory text that includes IBR. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the following documents into 40 CFR 63.14:

- ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses—Part 10, was previously approved for incorporation by reference for Table 4 to Subpart UUUU of Part 63.
- ASTM D6420–99 (Reapproved 2010), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, IBR approved for Table 4 to Subpart UUUU of Part 63.
- ASTM D5790–95 (Reapproved 2012), Standard Test Method for Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry, IBR approved for Table 4 to Subpart UUUU of Part 63.
- ASTM D6348–12e1, Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, IBR approved for Table 4 to Subpart UUUU of Part 63.

The EPA has made, and will continue to make, these documents generally available electronically through *https://www.regulations.gov/* and at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

6. Technical and Editorial Changes

The following lists additional proposed changes that address technical and editorial corrections:

- Revise the requirements in 40 CFR 63.5505 to clarify that CS2 storage tanks part of a submerged unloading and storage operation subject to 40 CFR part 63, subpart UUUU, is not subject to 40 CFR part 60, subpart Kb. These types of tanks are not the type of storage vessels in terms of their physical siting and operational design that were intended to be regulated under NSPS Kb, even when these tanks meet the vapor pressure and designed capacity under the rule. These tanks are completely submerged in a common water bath and have no air space within the tanks due to the continuous water layer above the CS2 layer, therefore, the tanks do not have direct CS2 gaseous emissions.
- Revise the performance test requirements in 40 CFR 63.5535 to specify the conditions for conducting performance tests;
- Revise the performance test requirements table (Table 4 to Subpart UUUU of Part 63) to correct an error in the reference to a test method appendix;
- Revise the performance test requirements table (Table 4 to Subpart UUUU of Part 63) to add IBR for ASTM D6420–99 (Reapproved 2010), ASTM D5790–95 (Reapproved 2012), and ASTM D6348–12e1;
- Revise the reporting requirements in 40 CFR 63.5580 and the reporting and recordkeeping requirements tables (Tables 8 and 9 to Subpart UUUU of Part 63) to include the requirements to record and report information on failures to meet the applicable standard and the corrective actions taken; and
- Revise the General Provisions applicability table (Table 10 to Subpart UUUU of Part 63) to align with those sections of the General Provisions that have been amended or reserved over time.

E. What compliance dates are we proposing?

For the proposed rule revisions related to the removal of the exemption from the requirements to meet the standard during SSM periods and the additional electronic reporting requirements, the EPA is proposing that existing affected sources must comply with the amendments in this rulemaking no later than 180 days after the effective date of the final rule. The EPA is also proposing that affected sources that commence construction or reconstruction after September 9, 2019 must comply with all requirements of the subpart, including the amendments being proposed unless indicated specifically otherwise, immediately upon startup. All affected existing facilities would have to continue to meet the current requirements of 40 CFR part 63, subpart UUUU, 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).

For existing sources, we are proposing two changes that would impact ongoing compliance requirements for 40 CFR part 63, subpart UUUU. As discussed elsewhere in this preamble, we are proposing to add a requirement that initial notifications, notifications of compliance status, performance test results, and the semiannual reports using the new template be submitted electronically. We are also proposing to change the requirements for SSM by removing the exemption from the requirements to meet the standard during SSM periods and by removing the requirement to develop and implement an SSM plan.

Our experience with similar industries that are required to convert reporting mechanisms, install necessary hardware, install necessary software, become familiar with the process of submitting performance test results electronically through the EPA's CEDRI, test these new electronic submission capabilities, reliably employ electronic reporting, and convert logistics of reporting processes to different time-reporting parameters, shows that a time period of a minimum of 90 days, and more typically 180 days, is generally necessary to successfully complete these changes. Our experience with similar industries further shows that this sort of regulated facility generally requires a time period of 180 days to read and

[29] See *Technology Review for the Cellulose Products Manufacturing Source Category—Proposed Rule,* Appendix E, available in the docket.

understand the amended rule requirements; 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; adjust parameter monitoring and recording systems to accommodate revisions; and update their operations to reflect the revised requirements. The EPA recognizes the confusion that multiple different compliance dates for individual requirements would create and the additional burden such an assortment of dates would impose. From our assessment of the timeframe needed for compliance with the entirety of the revised requirements, the EPA considers a period of 180 days to be the most expeditious compliance period practicable, and, thus, is proposing that existing affected sources be in compliance with all of this regulation's revised requirements within 180 days of the regulation's effective date. We solicit comment on this proposed compliance period, 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 requirements and the time needed to make the adjustments for compliance with any of the revised requirements. We note that information provided may result in changes to the proposed compliance date.

Additionally, we are also proposing new requirements to conduct periodic performance testing every 5 years. Establishing a compliance date earlier than 3 years for the first periodic performance test can cause scheduling issues as affected sources compete for a limited number of testing contractors. Considering these scheduling issues, we are proposing that each existing affected source, and each new and reconstructed affected source that commences construction or reconstruction after August 28, 2000, and on or before September 9, 2019 and uses a non-recovery control device to comply with the standards, must conduct the first periodic performance test on or before [**DATE 3 YEARS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE Federal Register**] and conduct subsequent periodic performance tests no later than 60 months thereafter following the previous performance test. For each new and reconstructed affected source that commences construction or reconstruction after September 9, 2019 and uses a non-recovery control device to comply with the standards, we are proposing that owners and operators must conduct the first periodic performance test no later than 60 months following the initial performance test required by 40 CFR 63.5535 and conduct subsequent periodic performance tests no later than 60 months thereafter following the previous performance test.

V. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

There are currently eight facilities operating in the United States that conduct MVP and CEP operations that are subject to the Cellulose Products Manufacturing NESHAP. The 40 CFR part 63, subpart UUUU affected source for the MVP source category is each cellulose food casing, rayon, cellulosic sponge, or cellophane operation, as defined in 40 CFR 63.5610. The affected source for the CEP source category is each cellulose ether operation, as defined in 40 CFR 63.5610.

B. What are the air quality impacts?

The EPA estimates that annual HAP emissions from the MVP and CEP facilities that are subject to the NESHAP are approximately 4,300 tpy. Because we are not proposing revisions to the emission limits, we do not anticipate any quantifiable air quality impacts as a result of the proposed amendments. However, we anticipate that the proposed requirements, including the removal of the SSM exemption and addition of periodic emissions testing, may reduce emissions by ensuring proper operation of control devices.

C. What are the cost impacts?

The eight facilities that would be subject to the proposed amendments would incur minimal net costs to meet revised recordkeeping and reporting requirements and would incur periodic emissions testing costs for add-on control devices. The nationwide costs associated with the proposed periodic testing requirements are estimated to be $490,000 (2018$) over the 5 years following promulgation of the amendments. For further information on the requirement being proposed, see section IV.D.2 of this preamble. For further information on the costs associated with the proposed requirements, see the memorandum, *Costs and Environmental Impacts of Regulatory Options for the Cellulose Products Manufacturing Industry—Proposed Rule,* and the document, *Supporting Statement for the NESHAP for Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU),* which are both available in the docket for this action. We solicit comment on these estimated cost impacts.

D. What are the economic impacts?

Economic impact analyses focus on changes in market prices and output levels. If changes in market prices and output levels in the primary markets are significant enough, impacts on other markets may also be examined. Both the magnitude of costs associated with the proposed requirements and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to a proposed rule. Based on the costs associated with the periodic testing requirements, no significant economic impacts from the proposed amendments are anticipated.

E. What are the benefits?

Although the EPA does not anticipate reductions in HAP emissions as a result of the proposed amendments, we believe that the action, if finalized as proposed, would result in improvements to the rule. Specifically, the proposed amendments revise the standards such that they apply at all times. Additionally, the proposed amendments requiring electronic submittal of initial notifications, performance test results, and semiannual reports will increase the usefulness of the data, is in keeping with current trends of data availability, will further assist in the protection of public health and the environment, and will ultimately result in less burden on the regulated community. See section IV.D.3 of this preamble for more information.

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 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/*

cellulose-products-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–2018–0415 (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/cellulose-products-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 Regulation 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 proposed rule have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 1974.09. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are essential in determining compliance and mandatory for all operators subject to national emissions standards. These recordkeeping and reporting requirements are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to Agency policies set forth in 40 CFR part 2, subpart B.

We are proposing changes to the paperwork requirements for 40 CFR part 63, subpart UUUU, in the form of eliminating the SSM reporting and SSM plan requirements, adding periodic emissions testing, providing biofilter effluent conductivity as an alternative to monitoring pH, and requiring electronic submittal of notifications, semiannual reports, and performance test reports.

Respondents/affected entities: Respondents include facilities subject to the NESHAP for Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU).

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart UUUU).

Estimated number of respondents: Eight.

Frequency of response: The frequency of responses varies depending on the burden item. Responses include initial notifications, reports of periodic performance tests, and semiannual compliance reports.

Total estimated burden: The annual recordkeeping and reporting burden for this information collection, averaged over the first 3 years of this ICR, is estimated to total 7,256 labor hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $954,000 per year, including $834,000 per year in labor costs and $120,000 per year in annualized capital or operation and maintenance costs.

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 9, 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. No small entities are subject to the requirements of this rule. As such, this action will not impose any requirements on 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. It will not have substantial direct effects on tribal governments, 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. No tribal governments own facilities subject to the NESHAP. 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 and IV of this preamble and further documented in the following risk reports titled *Residual Risk Assessment for the Miscellaneous Viscose Processes Source Category in Support of the 2019 Risk and Technology Review Proposed Rule* and *Residual Risk Assessment for the Cellulose Ethers Production Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* which can be found in the docket for this action.

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. The EPA proposes to use ASTM D6420–99 (Reapproved 2010), ''Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry,'' for the measurement of toluene and total organic HAP. This method employs a direct interface gas chromatograph/mass spectrometer to identify and quantify the 36 volatile organic compounds (or sub-set of these compounds) listed on the ASTM website. This ASTM 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. This ASTM should not be used for methane and ethane because their atomic mass is less than 35. ASTM D6420 should never be specified as a total VOC method.

The EPA also proposes to use ASTM D5790–95 (Reapproved 2012), ''Standard Test Method for Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry.'' This method covers the identification and simultaneous measurement of purgeable volatile organic compounds. It has been validated for treated drinking water, wastewater, and groundwater. ASTM D5790–95 is acceptable as an alternative to EPA Method 624 and for the analysis of total organic HAP in wastewater samples. For wastewater analyses, this ASTM method should be used with the sampling procedures of EPA Method 25D or an equivalent method in order to be a complete alternative. The ASTM standard is validated for all of the 21 volatile organic HAP (including toluene) targeted by EPA Method 624, but it is also validated for an additional 14 HAP not targeted by the EPA method.

The EPA proposes to use ASTM D6348–12e1, ''Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy'' as an acceptable alternative to using EPA Method 320 with caveats requiring inclusion of selected annexes to the standard as mandatory. This test method provides the volume concentration of detected analytes. Converting the volume concentration to a mass emission rate using a particular compound's molecular weight, and the effluent volumetric flow rate, temperature, and pressure is useful for determining the impact of that compound to the atmosphere. When using ASTM D6348–12e, the following conditions must be met: (1) The test plan preparation and implementation in the Annexes to ASTM D 6348–03, Sections A1 through A8 are mandatory; and (2) in ASTM D6348–03, Annex A5 (Analyte Spiking Technique), the percent recovery (%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 greater than or equal to 70 percent and less than or equal to 130 percent. If the %R value does not meet this criterion for a target compound, the test data are 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))/(%R) × 100.

The ASTM standards are reasonably available from the American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959. See *http://www.astm.org/.*

While the EPA has identified another 14 voluntary consensus standards (VCS) as being potentially applicable to this proposed rule, we have decided not to use these VCS in this rulemaking. The use of these VCS would not be practical due to lack of equivalency, documentation, validation date, and other important technical and policy considerations. See the memorandum titled *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing,* in the docket for this proposed rule for the reasons for these determinations.

Under 40 CFR 63.7(f) and 40 CFR 63.8(f) of subpart A of the General Provisions, a source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the final rule or any amendments.

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 such standards should be used 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 section IV.A.3 of this preamble and the technical reports titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Miscellaneous Viscose Processes Facilities* and *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Cellulose Ethers Production Facilities,* which are located in the public docket for this action.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference,

Intergovernmental relations, Reporting and recordkeeping requirements.

Andrew R. Wheeler,

Administrator.

For the reasons set forth in the preamble, the EPA 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 revising paragraphs (h)(72), (85), (89), and (91) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(h) * * *

(72) ASTM D5790–95 (Reapproved 2012), Standard Test Method for Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry, IBR approved for Table 4 to subpart UUUU.

* * * * *

(85) ASTM D6348–12e1, Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, Approved February 1, 2012, IBR approved for § 63.1571(a) and Table 4 to subpart UUUU.

* * * * *

(89) ASTM D6420–99, Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, IBR approved for §§ 63.5799 and 63.5850.

* * * * *

(91) ASTM D6420–99 (Reapproved 2010), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, Approved October 1, 2010, IBR approved for § 63.670(j), Table 4 to subpart UUUU, and appendix A to this part: Method 325B.

* * * * *

Subpart UUUU—[Amended]

■ 3. Section 63.5505 is amended by adding paragraph (f) to read as follows:

§ 63.5505 What emission limits, operating limits, and work practice standards must I meet?

* * * * *

(f) Carbon disulfide storage tanks part of a submerged unloading and storage operation subject to this part are not subject to 40 CFR part 60, subpart Kb (Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984).

■ 4. Section 63.5515 is amended by revising paragraph (a), paragraph (b) introductory text, adding and reserving paragraph (b)(2), and revising paragraph (c) to read as follows:

§ 63.5515 What are my general requirements for complying with this subpart?

(a) Before [DATE 181 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**], for each existing source, and for each new or reconstructed source for which construction or reconstruction commenced after June 11, 2002, but on or before September 9, 2019, you must be in compliance with the emission limits, operating limits, and work practice standards in this subpart at all times, except during periods of startup, shutdown, and malfunction. After [DATE 180 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**], for each such source you must be in compliance with the emission limitations in this subpart at all times. For new and reconstructed sources for which construction or reconstruction commenced after September 9, 2019, you must be in compliance with the emission limits, operating limits, and work practice standards in this subpart at all times.

(b) Before [DATE 181 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**], for each existing source, and for each new or reconstructed source for which construction or reconstruction commenced after June 11, 2002, but on or before September 9, 2019, you must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i). After [DATE 180 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**] for each such source, and after September 9, 2019 for new and reconstructed sources for which construction or reconstruction commenced after September 9, 2019, you must always operate and maintain your affected source, including air pollution control and monitoring equipment in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by this subpart. 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.

* * * * *

(c) Before [DATE 181 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**], for each existing source, and for each new or reconstructed source for which construction or reconstruction commenced after June 11, 2002, but on or before September 9, 2019, you must maintain a written startup, shutdown, and malfunction (SSM) plan according the provisions in § 63.6(e)(3). For each such source, a startup, shutdown, and malfunction plan is not required after [DATE 180 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**]. No startup, shutdown, and malfunction plan is required for any new or reconstruction source for which construction or reconstruction commenced after September 9, 2019.

* * * * *

■ 5. Section 63.5535 is amended by revising paragraph (b), removing and reserving paragraph (c), revising paragraphs (g)(1), (h)(1), and (i)(7) to read as follows:

§ 63.5535 What performance tests and other procedures must I use?

* * * * *

(b) You must conduct each performance test for continuous process vents and combinations of batch and continuous process vents based on representative performance (*i.e.,* performance based on normal operating conditions) of the affected source for the period being tested, according to the specific conditions in Table 4 to this Subpart UUUU. Representative conditions exclude periods of startup and shutdown. You may not conduct performance tests during periods of malfunction. You 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, you shall make available to the Administrator such records as

may be necessary to determine the conditions of performance tests.

* * * * *

(g) * * *

(1) Viscose process affected sources that must use non-recovery control devices to meet the applicable emission limit in table 1 to this subpart must conduct an initial performance test of their non-recovery control devices according to the requirements in table 4 to this subpart to determine the control efficiency of their non-recovery control devices and incorporate this information in their material balance. Periodic performance tests must be conducted as specified in § 63.5541.

* * * * *

(h) * * *

(1) Cellulose ether affected sources that must use non-recovery control devices to meet the applicable emission limit in table 1 to this subpart must conduct an initial performance test of their non-recovery control devices according to the requirements in table 4 to this subpart to determine the control efficiency of their non-recovery control devices and incorporate this information in their material balance. Periodic performance tests must be conducted as specified in § 63.5541.

* * * * *

(i) * * *

(7) For biofilters, record the pressure drop across the biofilter beds, inlet gas temperature, and effluent pH or conductivity averaged over the same time period as the compliance demonstration while the vent stream is routed and constituted normally. Locate the pressure, temperature, and pH or conductivity sensors in positions that provide representative measurement of these parameters. Ensure the sample is properly mixed and representative of the fluid to be measured.

* * * * *

■ 6. Section 63.5541 is added to read as follows:

§ 63.5541 When must I conduct subsequent performance tests?

(a) For each affected source utilizing a non-recovery control device to comply with § 63.5515 constructed or reconstructed before September 9, 2019, a periodic performance test must be performed by [DATE 3 YEARS AFTER DATE OF PUBLICATION IN THE **Federal Register**], and subsequent tests no later than 60 months thereafter.

(b) For each affected source utilizing a non-recovery control device to comply with § 63.5515 that commences construction or reconstruction after September 9, 2019, a periodic performance test must be performed no later than 60 months after the initial performance test required by § 63.5535, and subsequent tests no later than 60 months thereafter.

■ 7. Section 63.5545 is amended by revising paragraphs (b)(1) and (e)(2) to read as follows:

§ 63.5545 What are my monitoring installation, operation, and maintenance requirements?

* * * * *

(b) * * *

(1) Ongoing operation and maintenance procedures in accordance with the general requirements of §§ 63.8(c)(3) and (4)(ii), and 63.5515(b), and 63.5580(c)(6);

* * * * *

(e) * * *

(2) You must conduct a performance evaluation of each CEMS according to the requirements in § 63.8, Procedure 1 of 40 CFR part 60, appendix F, and according to the applicable performance specification listed in paragraphs (e)(1)(i) through (iv) of this section.

* * * * *

■ 8. Section 63.5555 is amended by revising paragraph (d) to read as follows:

§ 63.5555 How do I demonstrate continuous compliance with the emission limits, operating limits, and work practice standards?

* * * * *

(d) Deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.5515(b). The Administrator will determine whether deviations that occur during a period you identify as a startup, shutdown, or malfunction are violations, according to the provisions in § 63.5515(b).

■ 9. Section 63.5575 is revised to read as follows:

§ 63.5575 What notifications must I submit and when?

You must submit each notification in Table 7 to this subpart that applies to you by the date specified in Table 7 to this subpart. Initial notifications and Notification of Compliance Status Reports shall be electronically submitted in portable document format (PDF) following the procedure specified in § 63.5580(g).

■ 10. Section 63.5580 is amended by:

■ a. Revising paragraph (b) introductory text;

■ b. Adding paragraph (b)(6);

■ c. Revising paragraph (c)(4);

■ d. Revising paragraph (e) introductory text and paragraph (e)(2);

■ e. Adding paragraph (e)(14); and

■ f. Adding paragraphs (g) through (k).

The revisions and additions read as follows:

§ 63.5580 What reports must I submit and when?

* * * * *

(b) Unless the Administrator has approved a different schedule for submitting reports under § 63.10, you must submit each compliance report by the date in Table 8 to this subpart and according to the requirements in paragraphs (b)(1) through (6) of this section.

* * * * *

(6) Beginning on [DATE 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], submit all subsequent reports following the procedure specified in paragraph (g) of this section.

* * * * *

(c) * * *

(4) Before [DATE 181 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**], for each existing source, and for each new or reconstructed source for which construction or reconstruction commenced after June 11, 2002, but on or before September 9, 2019, if you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i). No startup, shutdown, and malfunction plan is required for any new or reconstruction source for which construction or reconstruction commenced after September 9, 2019. After [DATE 180 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**], this section is no longer relevant.

* * * * *

(e) For each deviation from an emission limit or operating limit occurring at an affected source where you are using a CMS to demonstrate continuous compliance with the emission limit or operating limit in this subpart (see Tables 5 and 6 to this subpart), you must include the information in paragraphs (c)(1) through (4) and (e)(1) through (14) of this section. This includes periods of startup, shutdown, and malfunction.

* * * * *

(2) The date, time, and duration that each CMS was inoperative, except for zero (low-level) and high-level checks.

* * * * *

(14) 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.

* * * * *

(g) *Submitting notifications or reports electronically.* If you are required to submit notifications or reports following the procedure specified in this paragraph, you must submit notifications or reports 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/*). Notifications must be submitted as PDFs to CEDRI. You must use the semi-annual 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. The semi-annual compliance 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. 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 EPA via EPA's CDX as described earlier in this paragraph.

(h) *Performance tests.* Within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (h)(1) through (3) of this section.

(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 CEDRI, which can be accessed through the EPA's 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 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 some of the information submitted under paragraph (h) 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 EPA via EPA's CDX as described in paragraph (h) of this section.

(i) *Performance evaluations.* 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 (i)(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 this paragraph (i) 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 this paragraph (i).

(j) *Claims of EPA system outage.* If you are required to electronically submit a report or notification 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 5 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 has 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) *Claims of force majeure.* 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 majuere, 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 the 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.

■ 11. Section 63.5590 is amended by adding paragraph (e) to read as follows:

§ 63.5590 In what form and how long must I keep my records?

* * * * *

(e) Any records required to be maintained by this part that are submitted electronically via 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 EPA as part of an on-site compliance evaluation.

■ 12. Table 2 to Subpart UUUU is revised to read as follows:

Table 2 to Subpart UUUU of Part 63—Operating Limits

As required in § 63.5505(b), you must meet the appropriate operating limits in the following table:

For the following control technique . . .	you must . . .
1. condenser	maintain the daily average condenser outlet gas or condensed liquid temperature no higher than the value established during the compliance demonstration.
2. thermal oxidizer	a. for periods of normal operation, maintain the daily average thermal oxidizer firebox temperature no lower than the value established during the compliance demonstration b. after [**DATE 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER**] for existing sources and new or reconstructed sources for which construction or reconstruction commenced after June 11, 2002, but on or before September 9, 2019, and immediately upon startup for new or reconstructed sources for which construction or reconstruction commenced after September 9, 2019, maintain documentation for periods of startup demonstrating that the oxidizer was properly operating (*e.g.,* firebox temperature had reached the setpoint temperature) prior to emission unit startup.
3. water scrubber	a. for periods of normal operation, maintain the daily average scrubber pressure drop and scrubber liquid flow rate within the range of values established during the compliance demonstration; b. after [**DATE 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER**] for existing sources and new or reconstructed sources for which construction or reconstruction commenced after June 11, 2002, but on or before September 9, 2019], and immediately upon startup for new or reconstructed sources for which construction or reconstruction commenced after September 9, 2019, maintain documentation for periods of startup and shutdown to confirm that the scrubber is operating properly prior to emission unit startup and continues to operate properly until emission unit shutdown is complete. Appropriate startup and shutdown operating parameters may be based on equipment design, manufacturer's recommendations, or other site-specific operating values established for normal operating periods.
4. caustic scrubber	a. for periods of normal operation, maintain the daily average scrubber pressure drop, scrubber liquid flow rate, and scrubber liquid pH, conductivity, or alkalinity within the range of values established during the compliance demonstration; b. after [**DATE 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER**] for existing sources and new or reconstructed sources for which construction or reconstruction commenced after June 11, 2002, but on or before September 9, 2019, and immediately upon startup for new or reconstructed sources for which construction or reconstruction commenced after September 9, 2019, maintain documentation for periods of startup and shutdown to confirm that the scrubber is operating properly prior to emission unit startup and continues to operate properly until emission unit shutdown is complete. Appropriate startup and shutdown operating parameters may be based on equipment design, manufacturer's recommendations, or other site-specific operating values established for normal operating periods.
5. flare	maintain the presence of a pilot flame.
6. biofilter	maintain the daily average biofilter inlet gas temperature, biofilter effluent pH or conductivity, and pressure drop within the operating values established during the compliance demonstration.

For the following control technique . . .	you must . . .
7. carbon absorber	maintain the regeneration frequency, total regeneration adsorber stream mass or volumetric flow during carbon bed regeneration, and temperature of the carbon bed after regeneration (and within 15 minutes of completing any cooling cycle(s)) for each regeneration cycle within the values established during the compliance demonstration.
8. oil absorber	maintain the daily average absorption liquid flow, absorption liquid temperature, and steam flow within the values established during the compliance demonstration.
9. any of the control techniques specified in this table.	if using a CEMS, maintain the daily average control efficiency of each control device no lower than the value established during the compliance demonstration.
10. any of the control techniques specified in this table.	a. if you wish to establish alternative operating parameters, submit the application for approval of the alternative operating parameters no later than the notification of the performance test or CEMS performance evaluation or no later than 60 days prior to any other initial compliance demonstration; b. the application must include: Information justifying the request for alternative operating parameters (such as the infeasibility or impracticality of using the operating parameters in this final rule); a description of the proposed alternative control device operating parameters; the monitoring approach; the frequency of measuring and recording the alternative parameters; how the operating limits are to be calculated; and information documenting that the alternative operating parameters would provide equivalent or better assurance of compliance with the standard; c. install, operate, and maintain the alternative parameter monitoring systems in accordance with the application approved by the Administrator; d. establish operating limits during the initial compliance demonstration based on the alternative operating parameters included in the approved application; and e. maintain the daily average alternative operating parameter values within the values established during the compliance demonstration.
11. alternative control technique	a. submit for approval no later than the notification of the performance test or CEMS performance evaluation or no later than 60 days prior to any other initial compliance demonstration a proposed site-specific plan that includes: A description of the alternative control device; test results verifying the performance of the control device; the appropriate operating parameters that will be monitored; and the frequency of measuring and recording to establish continuous compliance with the operating limits; b. install, operate, and maintain the parameter monitoring system for the alternative control device in accordance with the plan approved by the Administrator; c. establish operating limits during the initial compliance demonstration based on the operating parameters for the alternative control device included in the approved plan; and d. maintain the daily average operating parameter values for the alternative control technique within the values established during the compliance demonstration.

■ 13. Table 3 to Subpart UUUU is revised to read as follows:

Table 3 to Subpart UUUU of Part 63—Initial Compliance With Emission Limits and Work Practice Standards

As required in §§ 63.5530(a) and 63.5535(g) and (h), you must demonstrate initial compliance with the appropriate emission limits and work practice standards according to the requirements in the following table:

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
1. the sum of all viscose process vents.	a. each existing cellulose food casing operation.	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 25% based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 25% based on a 6-month rolling average; (2) for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and (3) comply with the work practice standard for closed-vent systems.

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
	b. each new cellulose food casing operation.	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 75% based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 75%; (2) you have a record of the range of operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 75%; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; and (4) you comply with the initial compliance requirements for closed-vent systems.
	c. each existing rayon operation ..	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 35% within 3 years after the effective date based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems; and	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 35% within 3 years after the effective date; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 35%; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; and (4) you comply with the initial compliance requirements for closed-vent systems; and
		ii. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 40% within 8 years after the effective date based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 40% within 8 years after the effective date; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 40%; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of the total sulfide emissions; and (4) you comply with the initial compliance requirements for closed-vent systems.

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
	d. each new rayon operation	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 75%; based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 75%; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 75%; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of total sulfide missions; and (4) you comply with the initial compliance requirements for closed-vent systems.
	e. each existing or new cellulosic sponge operation.	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 75% based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 75%; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 75%; (3) you prepare a material balance that includes the pertinent data used to determine and the percent reduction of total sulfide emissions; and (4) you comply with the initial compliance requirements for closed-vent systems.
	f. each existing or new cellophane operation.	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 75% based on a 6-month rolling average; ii. for each vent stream that you control using a control device (except for retractable hoods over sulfuric acid baths at a cellophane operation), route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 75%; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 75%; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; and (4) you comply with the initial compliance requirements for closed-vent systems.

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
2. the sum of all solvent coating process vents.	a. each existing or new cellophane operation.	i. reduce uncontrolled toluene emissions by at least 95% based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled toluene emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 95%; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled toluene emissions were reduced by at least 95%; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of toluene emissions; and (4) you comply with the initial compliance requirements for closed-vent systems.
3. the sum of all cellulose ether process vents.	a. each existing or new cellulose ether operation using a performance test to demonstrate initial compliance; or.	i. reduce total uncontrolled organic HAP emissions by at least 99%; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems; or	(1) average uncontrolled total organic HAP emissions, measured during the performance test or determined using engineering estimates are reduced by at least 99%; (2) you have a record of the average operating parameter values over the performance test during which the average uncontrolled total organic HAP emissions were reduced by at least 99%; and (3) you comply with the initial compliance requirements for closed-vent systems; or
	b. each existing or new cellulose ether operation using a material balance compliance demonstration to demonstrate initial compliance.	i. reduce total uncontrolled organic HAP emissions by at least 99% based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems; or	(1) average uncontrolled total organic HAP emissions, determined during the month-long compliance demonstration or using engineering estimates are reduced by at least 99%; (2) you have a record of the average operation parameter values over the month-long compliance demonstration during which the average uncontrolled total organic HAP emissions were reduced by at least 99%; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of total organic HAP emissions; (4) if you use extended cookout to comply, you measure the HAP charged to the reactor, record the grade of product produced, and then calculate reactor emissions prior to extended cookout by taking a percentage of the total HAP charged.
4. closed-loop systems	each existing or new cellulose ether operation.	operate and maintain the closed-loop system for cellulose ether operations.	you have a record certifying that a closed-loop system is in use for cellulose ether operations.

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
5. each carbon disulfide unloading and storage operation.	a. each existing or new viscose process affected source.	i. reduce uncontrolled carbon disulfide emissions by at least 83% from unloading and storage operations based on a 6-month rolling average if you use an alternative control technique not listed in this table for carbon disulfide unloading and storage operations; if using a control device to reduce emissions, route emissions through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems;	(1) you have a record documenting the 83% reduction in uncontrolled carbon disulfide emissions; and (2) if venting to a control device to reduce emissions, you comply with the initial compliance requirements for closed-vent systems;
		ii. reduce uncontrolled carbon disulfide by at least 0.14% from viscose process vents based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems;	(1) you comply with the initial compliance requirements for viscose process vents at existing or new cellulose food casing, rayon, cellulosic sponge, or cellophane operations, as applicable; (2) the 0.14% reduction must be in addition to the reduction already required for viscose process vents at existing or new cellulose food casing, rayon, cellulosic sponge, or cellophane operations, as applicable; and (3) you comply with the initial compliance requirements for closed-vent systems;
		iii. install a nitrogen unloading and storage system; or	you have a record certifying that a nitrogen unloading and storage system is in use; or
		iv. install a nitrogen unloading system; reduce uncontrolled carbon disulfide by at least 0.045% from viscose process vents based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems.	(1) you have a record certifying that a nitrogen unloading system is in use; (2) you comply with the initial compliance requirements for viscose process vents at existing or new cellulose food casing, rayon, cellulosic sponge, or cellophane operations, as applicable; (3) the 0.045% reduction must be in addition to the reduction already required for viscose process vents at cellulose food casing, rayon, cellulosic sponge, or cellophane operations, as applicable; and (4) you comply with the initial compliance requirements for closed-vent systems.

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
6. each toluene storage vessel	a. each existing or new cellophane operation.	i. reduce uncontrolled toluene emissions by at least 95% based on a 6-month rolling average; ii. if using a control device to reduce emissions, route the emissions through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled toluene emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 95%; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled toluene emissions were reduced by at least 95%; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of toluene emissions; and (4) if venting to a control device to reduce emissions, you comply with the initial compliance requirements for closed-vent systems.
7. equipment leaks	a. each existing or new cellulose ether operation.	i. comply with the applicable equipment leak standards of §§ 63.162 through 63.179; or	you comply with the applicable requirements described in the Notification of Compliance Status Report provisions in § 63.182(a)(2) and (c)(1) through (3), except that references to the term ''process unit'' mean ''cellulose ether process unit'' for the purposes of this subpart; or
		ii. comply with the applicable equipment leak standards of §§ 63.1021 through 63.1027.	you comply with the applicable requirements described in the Initial Compliance Status Report provisions of § 63.1039(a), except that references to the term ''process unit'' mean ''cellulose ether process unit'' for the purposes of this subpart.
8. all sources of wastewater emissions.	each existing or new cellulose ether operation.	comply with the applicable wastewater provisions of § 63.105 and §§ 63.132 through 63.140.	you comply with the applicability and Group 1/Group 2 determination provisions of § 63.144 and the initial compliance provisions of §§ 63.105 and 63.145.
9. liquid streams in open systems	each existing or new cellulose ether operation.	comply with the applicable provisions of § 63.149, except that references to ''chemical manufacturing process unit'' mean ''cellulose ether process unit'' for the purposes of this subpart.	you install emission suppression equipment and conduct an initial inspection according to the provisions of to §§ 63.133 through 63.137.
10. closed-vent system used to route emissions to a control device.	a. each existing or new affected source.	i. conduct annual inspections, repair leaks, and maintain records as specified in § 63.148.	(1) you conduct an initial inspection of the closed-vent system and maintain records according to § 63.148; (2) you prepare a written plan for inspecting unsafe-to-inspect and difficult-to-inspect equipment according to § 63.148(g)(2) and (h)(2); and (3) you repair any leaks and maintain records according to § 63.148.
11. closed-vent system containing a bypass line that could divert a vent stream away from a control device, except for equipment needed for safety purposes (described in § 63.148(f)(3)).	a. each existing or new affected source.	i. install, calibrate, maintain, and operate a flow indicator as specified in § 63.148(f)(1); or	you have a record documenting that you installed a flow indicator as specified in Table 1 to this subpart; or

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
		ii. secure the bypass line valve in the closed position with a car-seal or lock-and-key type configuration and inspect the seal or closure mechanism at least once per month as specified in § 63.148(f)(2).	you have record documenting that you have secured the bypass line valve as specified in Table 1 to this subpart.
12. heat exchanger system that cools process equipment or materials in the process unit.	a. each existing or new affected source.	i. monitor and repair the heat exchanger system according to § 63.104(a) through (e), except that references to ''chemical manufacturing process unit'' mean ''cellulose food casing, rayon, cellulosic sponge, cellophane, or cellulose ether process unit'' for the purposes of this subpart.	(1) you determine that the heat exchanger system is exempt from monitoring requirements because it meets one of the conditions in § 63.104(a)(1) through (6), and you document this finding in your Notification of Compliance Status Report; or (2) if your heat exchanger system is not exempt, you identify in your Notification of Compliance Status Report the HAP or other representative substance that you will monitor, or you prepare and maintain a site-specific plan containing the information required by § 63.104(c) (1) (i) through (iv) that documents the procedures you will use to detect leaks by monitoring surrogate indicators of the leak.

■ 14. Table 4 to Subpart UUUU is amended to read as follows:

Table 4 to Subpart UUUU of Part 63—Requirements for Performance Tests

As required in §§ 63.5530(b) and 63.5535(a), (b), (g)(1), and (h)(1), you must conduct performance tests, other initial compliance demonstrations, and CEMS performance evaluations and establish operating limits according to the requirements in the following table:

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
1. the sum of all process vents	a. the sum of all process vents.	i. select sampling port's location and the number of traverse points;.	EPA Method 1 or 1A in appendix A–1 to 40 CFR part 60 of this chapter;	sampling sites must be located at the inlet and outlet to each control device;
		ii. determine velocity and volumetric flow rate;.	EPA Method 2, 2A, 2C, 2D, 2F, or 2G in appendices A–1 and A–2 to part 60 of this chapter.	you may use EPA Method 2A, 2C, 2D, 2F, or 2G as an alternative to using EPA Method 2, as appropriate;
		iii. conduct gas analysis; and,	(1) EPA Method 3, 3A, or 3B in appendix A–2 to part 60 of this chapter; or,	you may use EPA Method 3A or 3B as an alternative to using EPA Method 3; or,
			(2) ASME PTC 19.10–1981—Part 10 (incorporated by reference—see § 63.14); and,	you may use ASME PTC 19.10–1981—Part 10 as an alternative to using the manual procedures (but not instrumental procedures) in EPA Method 3B.
		iv. measure moisture content of the stack gas.	EPA Method 4 in appendix A–3 to part 60 of this chapter.	
2. the sum of all viscose process vents	a. each existing or new viscose process source.	i. measure total sulfide emissions	(1) EPA Method 15 in appendix A–5 to part 60 of this chapter; or	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you must conduct testing of emissions from continuous viscose process vents and combinations of batch and continuous viscose process vents at normal operating conditions, as specified in § 63.5535; (c) you must conduct testing of emissions from batch viscose process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (d) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration; or
			(2) carbon disulfide and/or hydrogen sulfide CEMS, as applicable;	(a) you must measure emissions at the inlet and outlet of each control device using CEMS;

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
				(b) you must install, operate, and maintain the CEMS according to the applicable performance specification (PS–7, PS–8, PS–9, or PS–15) of 40 CFR part 60, appendix B; and (c) you must collect CEMS emissions data at the inlet and outlet of each control device during the period of the initial compliance demonstration and determine the CEMS operating limit during the period of the initial compliance demonstration.
3. the sum of all solvent coating process vents.	a. each existing or new cellophane operation.	i. measure toluene emissions	(1) EPA Method 18 in appendix A–6 to part 60 of this chapter, or Method 320 in appendix A to part 63; or.	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 18 or 320 to determine the control efficiency of any control device for organic compounds; for a combustion device, you must use only HAP that are present in the inlet to the control device to characterize the percent reduction across the combustion device; (c) you must conduct testing of emissions from continuous solvent coating process vents and combinations of batch and continuous solvent coating process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch solvent coating process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (d) you must conduct testing of emissions from batch solvent coating process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and
			(2) ASTM D6420–99 (Reapproved 2010) (incorporated by reference—see § 63.14); or.	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use ASTM D6420–99 (Reapproved 2010) as an alternative to EPA Method 18 only where: the target compound(s) are known and are listed in ASTM D6420–99 as measurable; this ASTM should not be used for methane and ethane because their atomic mass is less than 35; ASTM D6420 should never be specified as a total VOC method; (c) you must conduct testing of emissions from continuous solvent coating process vents and combinations of batch and continuous solvent coating process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch solvent coating process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.
			(3) ASTM D6348–12e1	(a) you must conduct testing of emissions at the inlet and outlet of each control device;

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
				(b) you may use ASTM D6348–12e1 as an alternative to EPA Method 320 only where the following conditions are met: (1) The test plan preparation and implementation in the Annexes to ASTM D 6348–03, Sections A1 through A8 are mandatory; and (2) in ASTM D6348–03 Annex A5 (Analyte Spiking Technique), the percent recovery (%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 greater than or equal to 70 percent and less than or equal to 130 percent. If the %R value does not meet this criterion for a target compound, the test data are 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))/(%R) × 100. (c) you must conduct testing of emissions from continuous solvent coating process vents and combinations of batch and continuous solvent coating process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch solvent coating process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.
4. the sum of all cellulose ether process vents.	a. each existing or new cellulose ether operation.	i. measure total organic HAP emissions	(1) EPA Method 18 in appendix A–6 to part 60 of this chapter or Method 320 in appendix A to part 63, or.	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 18 or 320 to determine the control efficiency of any control device for organic compounds; for a combustion device, you must use only HAP that are present in the inlet to the control device to characterize the percent reduction across the combustion device; (c) you must conduct testing of emissions from continuous cellulose ether process vents and combinations of batch and continuous cellulose ether process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch cellulose ether process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (d) you must conduct testing of emissions from batch cellulose ether process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and
			(2) ASTM D6420–99 (Reapproved 2010) (incorporated by reference—see § 63.14); or.	(a) you must conduct testing of emissions at the inlet and outlet of each control device;

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
				(b) you may use ASTM D6420–99 (Reapproved 2010) as an alternative to EPA Method 18 only where: the target compound(s) are known and are listed in ASTM D6420–99 as measurable; this ASTM should not be used for methane and ethane because their atomic mass is less than 35; ASTM D6420 should never be specified as a total VOC method; (c) you must conduct testing of emissions from continuous cellulose ether process vents and combinations of batch and continuous cellulose ether process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch cellulose ether process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial performance test and determine the CPMS operating limit during the period of the initial performance test.
			(3) ASTM D6348–12e1	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use ASTM D6348–12e1 as an alternative to EPA Method 320 only where the following conditions are met: (1) The test plan preparation and implementation in the Annexes to ASTM D 6348–03, Sections A1 through A8 are mandatory; and (2) in ASTM D6348–03 Annex A5 (Analyte Spiking Technique), the percent recovery (%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 greater than or equal to 70 percent and less than or equal to 130 percent. If the %R value does not meet this criterion for a target compound, the test data are 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))/(%R) $\times$ 100. (c) you must conduct testing of emissions from continuous solvent coating process vents and combinations of batch and continuous solvent coating process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch solvent coating process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.
			(3) EPA Method 25 in appendix A–7 to part 60 of this chapter; or.	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you must conduct testing of emissions at the inlet and outlet of each control device; (c) you must conduct testing of emissions from continuous cellulose ether process vents and combinations of batch and continuous cellulose ether process vents at normal operating conditions, as specified in § 63.5535;

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
				(d) you must conduct testing of emissions from batch cellulose ether process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial performance test and determine the CPMS operating limit during the period of the initial performance test; or
			(4) EPA Method 25A in appendix A–7 to part 60 of this chapter.	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 25A if: an exhaust gas volatile organic matter concentration of 50 ppmv or less is required in order to comply with the emission limit; the volatile organic matter concentration at the inlet to the control device and the required level of control are such as to result in exhaust volatile organic matter concentrations of 50 ppmv or less; or because of the high control efficiency of the control device, the anticipated volatile organic matter concentration at the control device exhaust is 50 ppmv or less, regardless of the inlet concentration; (c) you must conduct testing of emissions from continuous cellulose ether process vents and combinations of batch and continuous cellulose ether process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch cellulose ether process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and, (e) you must collect CPMS data during the period of the initial performance test and determine the CPMS operating limit during the period of the initial performance test.
5. each toluene storage vessel	a. each existing or new cellophane operation.	i. measure toluene emissions	(1) EPA Method 18 in appendix A–6 to part 60 of this chapter or Method 320 in appendix A to part 63; or.	(a) if venting to a control device to reduce emissions, you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 18 or 320 to determine the control efficiency of any control device for organic compounds; for a combustion device, you must use only HAP that are present in the inlet to the control device to characterize the percent reduction across the combustion device; (c) you must conduct testing of emissions from continuous storage vessel vents and combinations of batch and continuous storage vessel vents at normal operating conditions, as specified in § 63.5535 for continuous process vents; (d) you must conduct testing of emissions from batch storage vessel vents as specified in § 63.490(c) for batch process vents, except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and, (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration; or
			(2) ASTM D6420–99 (Reapproved 2010) (incorporated by reference—see § 63.14); or.	(a) if venting to a control device to reduce emissions, you must conduct testing of emissions at the inlet and outlet of each control device;

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
				(b) you may use ASTM D6420–99 (Reapproved 2010) as an alternative to EPA Method 18 only where: the target compound(s) are known and are listed in ASTM D6420–99 as measurable; this ASTM should not be used for methane and ethane because their atomic mass is less than 35; ASTM D6420 should never be specified as a total VOC method; (c) you must conduct testing of emissions from continuous storage vessel vents and combinations of batch and continuous storage vessel vents at normal operating conditions, as specified in § 63.5535 for continuous process vents; (d) you must conduct testing of emissions from batch storage vessel vents as specified in § 63.490(c) for batch process vents, except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and, (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.
			(3) ASTM D6348–12e1	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use ASTM D6348–12e1 as an alternative to EPA Method 320 only where the following conditions are met: (1) The test plan preparation and implementation in the Annexes to ASTM D 6348–03, Sections A1 through A8 are mandatory; and (2) in ASTM D6348–03 Annex A5 (Analyte Spiking Technique), the percent recovery (%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 greater than or equal to 70 percent and less than or equal to 130 percent. If the %R value does not meet this criterion for a target compound, the test data are 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))/(%R) × 100. (c) you must conduct testing of emissions from continuous solvent coating process vents and combinations of batch and continuous solvent coating process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch solvent coating process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.
6. the sum of all process vents controlled using a flare.	a. each existing or new affected source.	i. measure visible emissions	(1) EPA Method 22 in appendix A–7 to part 60 of this chapter.	(a) you must conduct the flare visible emissions test according to § 63.11(b).
7. equipment leaks	a. each existing or new cellulose ether operation.	i. measure leak rate	(1) applicable equipment leak test methods in § 63.180; or.	(a) you must follow all requirements for the applicable equipment leak test methods in § 63.180; or
			(2) applicable equipment leak test methods in § 63.1023.	(a) you must follow all requirements for the applicable equipment leak test methods in § 63.1023.

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
8. all sources of wastewater emissions	a. each existing or new cellulose ether operation.	i. measure wastewater HAP emissions ..	(1) applicable wastewater test methods and procedures in §§ 63.144 and 63.145; or. (2) applicable wastewater test methods and procedures in §§ 63.144 and 63.145, using ASTM D5790–95 (Reapproved 2012) as an alternative to EPA Method 624 in appendix A to part 163 of this chapter..	(a) You must follow all requirements for the applicable wastewater test methods and procedures in §§ 63.144 and 63.145; or (a) you must follow all requirements for the applicable waste water test methods and procedures in §§ 63.144 and 63.145, except that you may use ASTM D5790–95 (Reapproved 2012) as an alternative to EPA Method 624, under the condition that this ASTM method be used with the sampling procedures of EPA Method 25D or an equivalent method.
9. any emission point	a. each existing or new affected source using a CEMS to demonstrate compliance.	i. conduct a CEMS performance evaluation.	(1) applicable requirements in § 63.8 and applicable performance specification (PS–7, PS–8, PS–9, or PS–15) in appendix B to part 60 of this chapter.	(a) you must conduct the CEMS performance evaluation during the period of the initial compliance demonstration according to the applicable requirements in § 63.8 and the applicable performance specification (PS–7, PS–8, PS–9, or PS–15) of 40 CFR part 60, appendix B; (b) you must install, operate, and maintain the CEMS according to the applicable performance specification (PS–7, PS–8, PS–9, or PS–15) of 40 CFR part 60, appendix B; and (c) you must collect CEMS emissions data at the inlet and outlet of each control device during the period of the initial compliance demonstration and determine the CEMS operating limit during the period of the initial compliance demonstration.

■ 15. Table 5 to Subpart UUUU is revised to read as follows:

Table 5 to Subpart UUUU of Part 63—Continuous Compliance With Emission Limits and Work Practice Standards

As required in § 63.5555(a), you must demonstrate continuous compliance with the appropriate emission limits and work practice standards according to the requirements in the following table:

For . . .	at . . .	for the following emission limit or work practice standard . . .	you must demonstrate continuous compliance by . . .
1. the sum of all viscose process vents.	a. each existing or new viscose process affected source.	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least the specified percentage based on a 6-month rolling average;. ii. for each vent stream that you control using a control device (except for retractable hoods over sulfuric acid baths at a cellophane operation), route the vent stream through a closed-vent system to the control device; and. iii. comply with the work practice standard for closed-vent systems (except for retractable hoods over sulfuric acid baths at a cellophane operation).	(1) maintaining a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; (2) documenting the percent reduction of total sulfide emissions using the pertinent data from the material balance; and (3) complying with the continuous compliance requirements for closed-vent systems.
2. the sum of all solvent coating process vents.	a. each existing or new cellophane operation.	i. reduce uncontrolled toluene emissions by at least 95% based on a 6-month rolling average;. ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and. iii. comply with the work practice standard for closed-vent systems.	(1) maintaining a material balance that includes the pertinent data used to determine the percent reduction of toluene emissions; (2) documenting the percent reduction of toluene emissions using the pertinent data from the material balance; and (3) complying with the continuous compliance requirements for closed-vent systems.
3. the sum of all cellulose ether process vents.	a. each existing or new cellulose ether operation using a performance test to demonstrate initial compliance; or.	i. reduce total uncontrolled organic HAP emissions by at least 99%;. ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and,. iii. comply with the work practice standard for closed-vent systems; or.	(1) complying with the continuous compliance requirements for closed-vent systems; or (2) if using extended cookout to comply, monitoring reactor charges and keeping records to show that extended cookout was employed.

For . . .	at . . .	for the following emission limit or work practice standard . . .	you must demonstrate continuous compliance by . . .
	b. each existing or new cellulose ether operation using a material balance compliance demonstration to demonstrate initial compliance.	i. reduce total uncontrolled organic HAP emissions by at least 99% based on a 6-month rolling average;. ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to control device; and. iii. comply with the work practice standard for closed-vent systems.	(1) maintaining a material balance that includes the pertinent data used to determine the percent reduction of total organic HAP emissions; (2) documenting the percent reduction of total organic HAP emissions using the pertinent data from the material balance; (3) if using extended cookout to comply, monitoring reactor charges and keeping records to show that extended cookout was employed; (4) complying with the continuous compliance requirements for closed-vent systems.
4. closed-loop systems	each existing or new cellulose either operation.	operate and maintain a closed-loop system ...	keeping a record certifying that a closed-loop system is in use for cellulose ether operations.
5. each carbon disulfide unloading and storage operation.	a. each existing or new viscose process affected source.	i. reduce uncontrolled carbon disulfide emissions by at least 83% based on a 6-month rolling average if you use an alternative control technique not listed in this table for carbon disulfide unloading and storage operations; if using a control device to reduce emissions, route emissions through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems;.	(1) keeping a record documenting the 83% reduction in carbon disulfide emissions; and (2) if venting to a control device to reduce emissions, complying with the continuous compliance requirements for closed-vent systems;
		ii. reduce total uncontrolled sulfide emissions by at least 0.14% from viscose process vents based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems;.	(1) maintaining a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; (2) documenting the percent reduction of total sulfide emissions using the pertinent data from the material balance; and (3) complying with the continuous compliance requirements for closed-vent systems;
		iii. install a nitrogen unloading and storage system; or.	Keeping a record certifying that a nitrogen unloading and storage system is in use; or
		iv. install a nitrogen unloading system; reduce total uncontrolled sulfide emissions by at least 0.045% from viscose process vents based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems.	(1) keeping a record certifying that a nitrogen unloading system is in use; (2) maintaining a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; (3) documenting the percent reduction of total sulfide emissions using the pertinent data from the material balance; and (4) complying with the continuous compliance requirements for closed-vent systems.
6. each toluene storage vessel.	a. each existing or new cellophane operation.	a. each existing or new cellophane operation	(1) maintaining a material balance that includes the pertinent data used to determine the percent reduction of toluene emissions; (2) documenting the percent reduction of toluene emissions using the pertinent data from the material balance; and (3) if venting to a control device to reduce emissions, complying with the continuous compliance requirements for closed-vent systems.
7. equipment leaks	a. each existing or new cellulose ether operation.	i. applicable equipment leak standards of §§ 63.162 through 63.179; or. ii. applicable equipment leak standards of §§ 63.1021 through 63.1037.	complying with the applicable equipment leak continuous compliance provisions of §§ 63.162 through 63.179; or complying with the applicable equipment leak continuous compliance provisions of §§ 63.1021 through 63.1037.
8. all sources of wastewater emissions.	each existing or new cellulose either operation.	applicable wastewater provisions of § 63.105 and §§ 63.132 through 63.140..	complying with the applicable wastewater continuous compliance provisions of §§ 63.105, 63.143, and 63.148.
9. liquid streams in open systems.	each existing or new cellulose ether operation.	comply with the applicable provisions of § 63.149, except that references to "chemical manufacturing process unit" mean "cellulose ether process unit" for the purposes of this subpart.	conducting inspections, repairing failures, documenting delay of repair, and maintaining records of failures and corrective actions according to §§ 63.133 through 63.137.

For . . .	at . . .	for the following emission limit or work practice standard . . .	you must demonstrate continuous compliance by . . .
10. closed-vent system used to route emissions to a control device.	each existing or new affected source.	conduct annual inspections, repair leaks, maintain records as specified in § 63.148.	conducting the inspections, repairing leaks, and maintaining records according to § 63.148.
11. closed-vent system containing a bypass line that could divert a vent stream away from a control device, except for equipment needed for safety purposes (described in § 63.148(f)(3).	a. each existing or new affected source.	i. install, calibrate, maintain, and operate a flow indicator as specified in § 63.148(f)(1); or.	(1) taking readings from the flow indicator at least once every 15 minutes; (2) maintaining hourly records of flow indicator operation and detection of any diversion during the hour, and (3) recording all periods when the vent stream is diverted from the control stream or the flow indicator is not operating; or
	.....	ii. secure the bypass line valve in the closed position with a car-seal or lock-and-key type configuration and inspect the seal or mechanism at least once per month as specified in § 63.148(f)(2)..	(1) maintaining a record of the monthly visual inspection of the seal or closure mechanism for the bypass line; and (2) recording all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type lock has been checked out.
12. heat exchanger system that cools process equipment or materials in the process unit.	a. each existing or new affected source.	i. monitor and repair the heat exchanger system according to § 63.104(a) through (e), except that references to "chemical manufacturing process unit" mean "cellulose food casing, rayon, cellulosic sponge, cellophane, or cellulose ether process unit" for the purposes of this subpart.	(1) monitoring for HAP compounds, other substances, or surrogate indicators at the frequency specified in § 63.104(b) or (c); (2) repairing leaks within the time period specified in § 63.104(d)(1); (3) confirming that the repair is successful as specified in § 63.104(d)(2); (4) following the procedures in § 63.104(e) if you implement delay of repair; and (5) recording the results of inspections and repair according to § 63.104(f)(1).

■ 16. Table 6 to Subpart UUUU is revised to read as follows:

Table 6 to Subpart UUUU of Part 63—Continuous Compliance With Operating Limits

As required in § 63.5555(a), you must demonstrate continuous compliance with the appropriate operating limits according to the requirements in the following table:

For the following control technique . . .	for the following operating limit . . .	you must demonstrate continuous compliance by . . .
1. condenser	maintain the daily average condenser outlet gas or condensed liquid temperature no higher than the value established during the compliance demonstration.	collecting the condenser outlet gas or condensed liquid temperature data according to § 63.5545; reducing the condenser outlet gas temperature data to daily averages; and maintaining the daily average condenser outlet gas or condensed liquid temperature no higher than the value established during the compliance demonstration.
2. thermal oxidizer	a. for normal operations, maintain the daily average thermal oxidizer firebox temperature no lower than the value established during the compliance demonstration.	collecting the thermal oxidizer firebox temperature data according to § 63.5545; reducing the thermal oxidizer firebox temperature data to daily averages; and maintaining the daily average thermal oxidizer firebox temperature no lower than the value established during the compliance demonstration.
	b. for periods of startup, maintain documentation demonstrating that the oxidizer was properly operating (*e.g.,* firebox temperature had reached the setpoint temperature) prior to emission unit startup.	collecting the appropriate, site-specific data needed to demonstrate that the oxidizer was properly operating prior to emission unit start up; and excluding firebox temperature from the daily averages during emission unit startup.
3. water scrubber	a. for normal operations, maintain the daily average scrubber pressure drop and scrubber liquid flow rate within the range of values established during the compliance demonstration.	collecting the scrubber pressure drop and scrubber liquid flow rate data according to § 63.5545; reducing the scrubber parameter data to daily averages; and maintaining the daily scrubber parameter values within the range of values established during the compliance demonstration.

For the following control technique . . .	for the following operating limit . . .	you must demonstrate continuous compliance by . . .
	b. for periods of startup and shutdown, maintain documentation to confirm that the scrubber is operating properly prior to emission unit startup and continues to operate properly until emission unit shutdown is complete. Appropriate startup and shutdown operating parameters may be based on equipment design, manufacturer's recommendations, or other site-specific operating values established for normal operating periods.	collecting the appropriate, site-specific data needed to demonstrate that the scrubber was operating properly during emission unit startup and emission unit shutdown; and excluding parameters from the daily average calculations.
4. caustic scrubber	a. for normal operations, maintain the daily average scrubber pressure drop, scrubber liquid flow rate, and scrubber liquid pH, conductivity, or alkalinity within the range of values established during the compliance demonstration.	collecting the scrubber pressure drop, scrubber liquid flow rate, and scrubber liquid pH, conductivity, or alkalinity data according to § 63.5545; reducing the scrubber parameter data to daily averages; and maintaining the daily scrubber parameter values within the range of values established during the compliance demonstration.
	b. for periods of startup and shutdown, maintain documentation to confirm that the scrubber is operating properly prior to emission unit startup and continues to operate properly until emission unit shutdown is complete. Appropriate startup and shutdown operating parameters may be based on equipment design, manufacturer's recommendations, or other site-specific operating values established for normal operating periods.	collecting the appropriate, site-specific data needed to demonstrate that the scrubber was operating properly during emission unit startup and emission unit shutdown; and excluding parameters from the daily average calculations.
5. flare	maintain the presence of a pilot flame	collecting the pilot flame data according to § 63.5545; and maintaining the presence of the pilot flame.
6. biofilter	maintain the daily average biofilter inlet gas temperature, biofilter effluent pH or conductivity, and pressure drop within the values established during the compliance demonstration.	collecting the biofilter inlet gas temperature, biofilter effluent pH or conductivity, and biofilter pressure drop data according to § 63.5545; reducing the biofilter parameter data to daily averages; and maintaining the daily biofilter parameter values within the values established during the compliance demonstration.
7. carbon absorber	maintain the regeneration frequency, total regeneration stream mass or volumetric flow during carbon bed regeneration and temperature of the carbon bed after regeneration (and within 15 minutes of completing any cooling cycle(s)) for each regeneration cycle within the values established during the compliance demonstration.	collecting the data on regeneration frequency, total regeneration stream mass or volumetric flow during carbon bed regeneration and temperature of the carbon bed after regeneration (and within 15 minutes of completing any cooling cycle(s)) for each regeneration cycle according to § 63.5545; and maintaining carbon absorber parameter values for each regeneration cycle within the values established during the compliance demonstration.
8. oil absorber	maintain the daily average absorption liquid flow, absorption liquid temperature, and steam flow within the values established during the compliance demonstration.	collecting the absorption liquid flow, absorption liquid temperature, and steam flow data according to § 63.5545; reducing the oil absorber parameter data to daily averages; and maintaining the daily oil absorber parameter values within the values established during the compliance demonstration.
9. any of the control techniques specified in this table.	if using a CEMS, maintain the daily average control efficiency for each control device no lower than the value established during the compliance demonstration.	collecting CEMS emissions data at the inlet and outlet of each control device according to § 63.5545; determining the control efficiency values for each control device using the inlet and outlet CEMS emissions data; reducing the control efficiency values for each control device to daily averages; and maintaining the daily average control efficiency for each control device no lower than the value established during the compliance demonstration.

■ 17. Table 7 to Subpart UUUU is revised to read as follows:

Table 7 to Subpart UUUU of Part 63—Notifications

As required in §§ 63.5490(c)(4), 63.5530(c), 63.5575, and 63.5595(b), you must submit the appropriate notifications specified in the following table:

If you . . .	then you must . . .
1. are required to conduct a performance test	submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin, as specified in §§ 63.7(b)(1) and 63.9(e).

If you . . .	then you must . . .
2. are required to conduct a CMS performance evaluation	submit a notification of intent to conduct a CMS performance evaluation at least 60 calendar days before the CMS performance evaluation is scheduled to begin, as specified in §§ 63.8(e)(2) and 63.9(g).
3. wish to use an alternative monitoring method	submit a request to use alternative monitoring method no later than the notification of the initial performance test or CMS performance evaluation or 60 days prior to any other initial compliance demonstration, as specified in § 63.8(f)(4).
4. start up your affected source before June 11, 2002	submit an initial notification no later than 120 days after June 11, 2002, as specified in § 63.9(b)(2).
5. start up your new or reconstructed source on or after June 11, 2002	submit an initial notification no later than 120 days after you become subject to this subpart, as specified in § 63.9(b)(3).
6. cannot comply with the relevant standard by the applicable compliance date.	submit a request for extension of compliance no later than 120 days before the compliance date, as specified in §§ 63.9(c) and 63.6(i)(4).
7. are subject to special requirements as specified in § 63.6(b)(3) and (4).	notify the Administrator of your compliance obligations no later than the initial notification dates established in § 63.9(b) for new sources not subject to the special provisions, as specified in § 63.9(d).
8. are required to conduct visible emission observations to determine the compliance of flares as specified in § 63.11(b)(4).	notify the Administrator of the anticipated date for conducting the observations specified in § 63.6(h)(5), as specified in §§ 63.6(h)(4) and 63.9(f).
9. are required to conduct a performance test or other initial compliance demonstration as specified in Table 3 to this subpart.	a. submit a Notification of Compliance Status Report, as specified in § 63.9(h); b. submit the Notification of Compliance Status Report, including the performance test, CEMS performance evaluation, and any other initial compliance demonstration results within 240 calendar days following the compliance date specified in § 63.5495; and c. beginning on **[DATE 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]**, submit all subsequent Notifications of Compliance Status following the procedure specified in § 63.5580(g), (j), and (k).
10. comply with the equipment leak requirements of subpart H of this part for existing or new cellulose ether affected sources.	comply with the notification requirements specified in § 63.182(a)(1) and (2), (b), and (c)(1) through (3) for equipment leaks, with the Notification of Compliance Status Reports required in subpart H included in the Notification of Compliance Status Report required in this subpart.
11. comply with the equipment leak requirements of subpart UU of this part for existing or new cellulose ether affected sources.	comply with the notification requirements specified in § 63.1039(a) for equipment leaks, with the Notification Compliance Status Reports required in subpart UU of this part included in the Notification of Compliance Status Report required in this subpart.
12. comply with the wastewater requirements of subparts F and G of this part for existing or new cellulose ether affected sources.	comply with the notification requirements specified in §§ 63.146(a) and (b), 63.151, and 63.152(a)(1) through (3) and (b)(1) through (5) for wastewater, with the Notification of Compliance Status Reports required in subpart G of this part included in the Notification of Compliance Status Report required in this subpart.

■ 18. Table 8 to Subpart UUUU is revised to read as follows:

Table 8 to Subpart UUUU of Part 63—Reporting Requirements

As required in § 63.5580, you must submit the appropriate reports specified in the following table:

You must submit a compliance report, which must contain the following information . . .	and you must submit the report . . .
1. if there are no deviations from any emission limit, operating limit, or work practice standard during the reporting period, then the report must contain the information specified in § 63.5580(c);.	semiannually as specified in § 63.5580(b); beginning on **[DATE 180 DAYS AFTER PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]**, submit all subsequent reports following the procedure specified in § 63.5580(g).
2. if there were no periods during which the CMS was out-of-control, then the report must contain the information specified in § 63.5580(c)(6);. 3. if there is a deviation from any emission limit, operating limit, or work practice standard during the reporting period, then the report must contain the information specified in § 63.5580(c) and (d);. 4. if there were periods during which the CMS was out-of-control, then the report must contain the information specified in § 63.5580(e);. 5. if prior to **[DATE 180 DAYS AFTER PUBLICATION OF FINAL RULE IN THE Federal Register]**, you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your SSM plan, then the report must contain the information specified in § 63.10(d)(5)(i);.	

You must submit a compliance report, which must contain the following information . . .	and you must submit the report . . .
6. if prior to **[DATE 180 DAYS AFTER PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]**, you had a startup, shutdown, or malfunction during the reporting period and you took actions that are not consistent with your SSM plan, then the report must contain the information specified in § 63.10(d)(5)(ii);. 7. the report must contain any change in information already provided, as specified in § 63.9(j);. 8. for cellulose ether affected sources complying with the equipment leak requirements of subpart H of this part, the report must contain the information specified in § 63.182(a)(3) and (6) and (d)(2) through (4);. 9. for cellulose ether affected sources complying with the equipment leak requirements of subpart UU of this part, the report must contain the information specified in § 63.1039(b);. 10. for cellulose ether affected sources complying with the wastewater requirements of subparts F and G of this part, the report must contain the information specified in §§ 63.146(c) through (e) and 63.152(a)(4) and (5) and (c) through (e);. 11. for affected sources complying with the closed-vent system provisions in § 63.148, the report must contain the information specified in § 63.148(j)(1);. 12. for affected sources complying with the bypass line provisions in § 63.148(f), the report must contain the information specified in § 63.148(j)(2) and (3);. 13. for affected sources invoking the delay of repair provisions in § 63.104(e) for heat exchanger systems, the next compliance report must contain the information in § 63.104(f)(2)(i) through (iv); if the leak remains unrepaired, the information must also be submitted in each subsequent compliance report until the repair of the leak is reported; and. 14. for storage vessels subject to the emission limits and work practice standards in Table 1 to Subpart UUUU, the report must contain the periods of planned routine maintenance during which the control device does not comply with the emission limits or work practice standards in Table 1 to this subpart.	

■ 19. Table 9 to Subpart UUUU is revised to read as follows:

Table 9 to Subpart UUUU of Part 63—Recordkeeping Requirements

As required in § 63.5585, you must keep the appropriate records specified in the following table:

If you operate . . .	then you must keep . . .	and the record(s) must contain . . .
1. an existing or new affected source	a copy of each notification and report that you submitted to comply with this subpart.	all documentation supporting any Initial Notification or Notification of Compliance Status Report that you submitted, according to the requirements in § 63.10(b)(2)(xiv), and any compliance report required under this subpart.
2. an existing or new affected source that commenced construction or reconstruction before September 9, 2019.	a. the records in § 63.6(e)(3)(iii) through (iv) related to startup, shutdown, and malfunction prior to **[DATE 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]**.	i. SSM plan; ii. when actions taken during a startup, shutdown, or malfunction are consistent with the procedures specified in the SSM plan, records demonstrating that the procedures specified in the plan were followed; iii. records of the occurrence and duration of each startup, shutdown, or malfunction; and iv. when actions taken during a startup, shutdown, or malfunction are not consistent with the procedures specified in the SSM plan, records of the actions taken for that event.

If you operate . . .	then you must keep . . .	and the record(s) must contain . . .
	b. records related to startup and shutdown, failures to meet the standard, and actions taken to minimize emissions after **[DATE 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]**.	i. record the date, time, and duration of each startup and/or shutdown period, including the periods when the affected source was subject to the alternative operating parameters applicable to startup and shutdown; ii. 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; iii. 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; and iv. record actions taken to minimize emissions in accordance with § 63.5515(b), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.
3. a new or reconstructed affected source that commenced construction or reconstruction after September 9, 2019.	a. records related to startup and shutdown, failures to meet the standard, and actions taken to minimize emissions.	i. record the date, time, and duration of each startup and/or shutdown period, including the periods when the affected source was subject to alternative operating parameters applicable to startup and shutdown; ii. 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; iii. 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; and iv. record actions taken to minimize emissions in accordance with § 63.5515(b), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.
4. an existing or new affected source	a. a site-specific monitoring plan	i. information regarding the installation of the CMS sampling source probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (*e.g.,* on or downstream of the last control device); ii. performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system; iii. performance evaluation procedures and acceptance criteria (e.g., calibrations); iv. ongoing operation and maintenance procedures in accordance with the general requirements of §§ 63.8(c)(3) and (4)(ii), 63.5515(b), and 63.5580(c)(6); v. ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d)(2); and vi. ongoing recordkeeping and reporting procedures in accordance with the general requirements of §§ 63.10(c)(1)–(6), (c)(9)–(14), (e)(1), and (e)(2)(i) and 63.5585.
5. an existing or new affected source	records of performance tests and CEMS performance evaluations, as required in § 63.10(b)(2)(viii) and any other initial compliance demonstrations.	all results of performance tests, CEMS performance evaluations, and any other initial compliance demonstrations, including analysis of samples, determination of emissions, and raw data.

If you operate . . .	then you must keep . . .	and the record(s) must contain . . .
6. an existing or new affected source	a. records for each CEMS	i. records described in § 63.10(b)(2)(vi) through (xi); ii. previous (superseded) versions of the performance evaluation plan, with the program of corrective action included in the plan required under § 63.8(d)(2); iii. request for alternatives to relative accuracy test for CEMS as required in § 63.8(f)(6)(i); iv. 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; and v. records required in Table 6 to Subpart UUUU to show continuous compliance with the operating limit.
7. an existing or new affected source	a. records for each CPMS	i. records required in Table 6 to Subpart UUUU to show continuous compliance with each operating limit that applies to you; and ii. results of each CPMS calibration, validation check, and inspection required by § 63.5545(b)(4).
8. an existing or new cellulose ether affected ether source.	records of closed-loop systems	records certifying that a closed-loop system is in use for cellulose ether operations.
9. an existing or new viscose process affected source.	records of nitrogen unloading and storage systems or nitrogen unloading systems.	records of nitrogen unloading and storage systems or nitrogen unloading systems
10. an existing or new viscose process affected source.	records of material balances	all pertinent data from the material balances used to estimate the 6-month rolling average percent reduction in HAP emissions.
11. an existing or new viscose process affected source.	records of calculations	documenting the percent reduction in HAP emissions using pertinent data from the material balances.
12. an existing or new cellulose ether affected source.	a. extended cookout records	i. the amount of HAP charged to the reactor; ii. the grade of product produced; iii. the calculated amount of HAP remaining before extended cookout; and iv. information showing that extended cookout was employed.
13. an existing or new cellulose ether affected source.	a. equipment leak records	i. the records specified in § 63.181 for equipment leaks; or ii. the records specified in 63.1038 for equipment leaks.
14. an existing or new cellulose ether affected source.	wastewater records	the records specified in §§ 63.105, 63.147, and 63.152(f) and (g) for wastewater.
15. an existing or new affected source	closed-vent system records	the records specified in § 63.148(i).
16. an existing or new affected source	a. bypass line records	i. hourly records of flow indicator operation and detection of any diversion during the hour and records of all periods when the vent stream is diverted from the control stream or the flow indicator is not operating; or ii. the records of the monthly visual inspection of the seal or closure mechanism and of all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type lock has been checked out and records of any car-seal that has broken.
17. an existing or new affected source	heat exchanger system records	records of the results of inspections and repair according to source § 63.104(f)(1).
18. an existing or new affected source	control device maintenance records	records of planned routine maintenance for control devices used to comply with the percent reduction emission limit for storage vessels in Table 1 to Subpart UUUU.
19. an existing or new affected source	safety device records	a record of each time a safety device is opened to avoid unsafe conditions according to § 63.5505(d).

■ 20. Table 10 to Subpart UUUU is revised to read as follows:

Table 10 to Subpart UUUU of Part 63—Applicability of General Provisions to Subpart UUUU

As required in §§ 63.5515(h) and 63.5600, you must comply with the appropriate General Provisions requirements specified in the following table:

Citation	Subject	Brief description	Applies to subpart UUUU
§ 63.1	Applicability	Initial applicability determination; applicability after standard established; permit requirements; extensions, notifications.	Yes.
§ 63.2	Definitions	Definitions for part 63 standards	Yes
§ 63.3	Units and Abbreviations.	Units and abbreviations for part 63 standards.	Yes.
§ 63.4	Prohibited Activities and Circumvention.	Prohibited activities; compliance date; circumvention, severability.	Yes.
§ 63.5	Preconstruction Review and Notification Requirements.	Preconstruction review requirements of section 112(i)(1).	Yes.
§ 63.6(a)	Applicability	General provisions apply unless compliance extension; general provisions apply to area sources that become major.	Yes.
§ 63.6(b)(1) through (4)	Compliance Dates for New and Reconstructed sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for CAA section 112(f).	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes.
§ 63.6(b)(6)	[Reserved]		
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources That Become Major.	Area sources that become major must comply with major source and standards immediately upon becoming major, regardless of whether required to comply when they were an area source.	Yes.
§ 63.6(c)(1) and (2)	Compliance Dates for Existing Sources.	Comply according to date in subpart, which must be no later than 3 years after effective date; for CAA section 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes.
§ 63.6(c)(3) and (4)	[Reserved]		
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources That Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (*e.g.,* 3 years).	Yes.
§ 63.6(d)	[Reserved]		
§ 63.6(e)(1)(i)	General Duty to Minimize Emissions..	You must operate and maintain affected source in a manner consistent with safety and good air pollution control practices for minimizing emissions.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019, see § 63.5515 for general duty requirement. Yes, for all other affected sources before **[DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]**, and No thereafter.
§ 63.6(e)(1)(ii)	Requirement to Correct Malfunctions ASAP.	You must correct malfunctions as soon as practicable after their occurrence.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. Yes, for all other affected sources before **[DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]**, and No thereafter.
§ 63.6(e)(1)(iii)	Operation and Maintenance Requirements.	Operation and maintenance requirements are enforceable independent of emissions limitations or other requirements in relevant standards.	Yes.
§ 63.6(e)(2)	[Reserved]		

Citation	Subject	Brief description	Applies to subpart UUUU
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan.	Requirement for startup, shutdown, and malfunction and SSM plan; content of SSM plan.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. Yes, for all other affected sources before **[DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]**, and No thereafter.
§ 63.6(f)(1)	SSM Exemption	You must comply with emission standards at all times except during SSM.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. Yes, for all other affected sources before **[DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]**, and No thereafter.
§ 63.6(f)(2) and (3)	Methods for Determining Compliance/Finding of Compliance.	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes.
§ 63.6(g)(1) through (3)	Alternative Standard	Procedures for getting an alternative standard.	Yes.
§ 63.6(h)(1)	SSM Exemption	You must comply with opacity and visible emission standards at all times except during SSM.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. Yes, for all other affected sources utilizing flares before **[DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]**, and No thereafter.
§ 63.6(h)(2) through (9)	Opacity and Visible Emission (VE) Standards.	Requirements for opacity and visible emission limits.	Yes, but only for flares for which EPA Method 22 observations are required under § 63.11(b).
§ 63.6(i)(1) through (16)	Compliance Extension.	Procedures and criteria for Administrator to grant compliance extension.	Yes.
§ 63.6(j)	Presidential Compliance Exemption.	President may exempt source category from requirement to comply with subpart.	Yes.
§ 63.7(a)(1) and (2)	Performance Test Dates.	Dates for conducting initial performance test; testing and other compliance demonstrations; must conduct 180 days after first subject to subpart.	Yes.
§ 63.7(a)(3)	Section 114 Authority.	Administrator may require a performance test under CAA Section 114 at any time.	Yes.
§ 63.7(b)(1)	Notification of Performance Test.	Must notify Administrator 60 days before the test.	Yes.
§ 63.7(b)(2)	Notification of Rescheduling.	If rescheduling a performance test is necessary, must notify Administrator 5 days before scheduled date of rescheduled test.	Yes.
§ 63.7(c)	Quality Assurance and Test Plan.	Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with; test plan approval procedures; performance audit requirements; internal and external QA procedures for testing.	No.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes.
§ 63.7(e)(1)	Performance Testing	Performance tests must be conducted under representative conditions; cannot conduct performance tests during SSM; not a violation to exceed standard during SSM.	No, see § 63.5535 and Table 4.
§ 63.7(e)(2)	Conditions for Conducting Performance Tests.	Must conduct according to this subpart and EPA test methods unless Administrator approves alternative.	Yes.
§ 63.7(e)(3)	Test Run Duration	Must have three test runs of at least 1 hour each; compliance is based on arithmetic mean of three runs; conditions when data from an additional test run can be used.	Yes.

Citation	Subject	Brief description	Applies to subpart UUUU
§ 63.7(f)	Alternative Test Method.	Procedures by which Administrator can grant approval to use an alternative test method.	Yes.
§ 63.7(g)	Waiver of Tests	Procedures for Administrator to waive performance test.	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements.	Subject to all monitoring requirements in standard.	Yes.
§ 63.8(a)(2)	Performance Specifications.	Performance specifications in Appendix B of 40 CFR part 60 apply.	Yes.
§ 63.8(a)(3)	[Reserved]		
§ 63.8(a)(4)	Monitoring with Flares.	Unless your subpart says otherwise, the requirements for flares in § 63.11 apply.	Yes.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.
§ 63.8(b)(2) and (3)	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing monitoring systems; must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise; if more than one monitoring system on an emission point, must report all monitoring system results, unless one monitoring system is a backup.	Yes.
§ 63.8(c)(1) and (c)(1)(i)	General Duty to Minimize Emissions and CMS Operation.	Maintain monitoring system in a manner consistent with good air pollution control practices.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. Yes, for all other affected sources before **[DATE 181 DAYS AFTER PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]**, and No thereafter.
§ 63.8(c)(1)(ii)	Parts for Routine Repairs.	Keep parts for routine repairs readily available.	Yes.
§ 63.8(c)(1)(iii)	Requirements to develop SSM Plan for CMS.	Develop a written SSM plan for CMS	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. Yes, for all other affected sources before **[DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]**, and No thereafter.
§ 63.8(c)(2) and (3)	Monitoring System Installation.	Must install to get representative emission of parameter measurements; must verify operational status before or at performance test.	Yes.
§ 63.8(c)(4)	Continuous Monitoring System (CMS) Requirements.	CMS must be operating except during breakdown, out-of control, repair, maintenance, and high-level calibration drifts.	No. Replaced with language in § 63.5560.
§ 63.8(c)(4)(i) and (ii)	Continuous Monitoring System (CMS) Requirements.	Continuous opacity monitoring systems (COMS) must have a minimum of one cycle of sampling and analysis for each successive 10-second period and one cycle of data recording for each successive 6-minute period; CEMS must have a minimum of one cycle of operation for each successive 15-minute period.	Yes, except that § 63.8(c)(4)(i) does not apply because subpart UUUU does not require COMS.
§ 63.8(c)(5)	COMS Minimum Procedures.	COMS minimum procedures	No. Subpart UUUU does not require COMS.
§ 63.8(c)(6)	CMS Requirements	Zero and high level calibration check requirements; out-of-control periods.	No. Replaced with language in § 63.5545.
§ 63.8(c)(7) and (8)	CMS Requirements	Out-of-control periods, including reporting	No. Replaced with language in § 63.5580(c)(6).
§ 63.8(d)	CMS Quality Control	Requirements for CMS quality control, including calibration, etc.; must keep quality control plan on record for 5 years; keep old versions for 5 years after revisions; program of correction action to be included in plan required under § 63.8(d)(2)..	No, except for requirements in § 63.8(d)(2).

Citation	Subject	Brief description	Applies to subpart UUUU
§ 63.8(e)	CMS Performance Evaluation.	Notification, performance evaluation test plan, reports.	Yes, except that § 63.8(e)(5)(ii) does not apply because subpart UUUU does not require COMS.
§ 63.8(f)(1) through (5)	Alternative Monitoring Method.	Procedures for Administrator to approve alternative monitoring.	Yes, except that no site-specific test plan is required. The request to use an alternative monitoring method must be submitted with the notification of performance test or CEMS performance evaluation or 60 days prior to any initial compliance demonstration.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.	Procedures for Administrator to approve alternative relative accuracy tests for CEMS.	Yes.
§ 63.8(g)(1) through (4)	Data Reduction	COMS 6-minute averages calculated over at least 36 evenly spaced data points; CEMS 1-hour averages computed over at least four equally spaced data points; data that cannot be used in average.	No. Replaced with language in § 63.5545(e).
§ 63.8(g)(5)	Data Reduction	Data that cannot be used in computing averages for CEMS and COMS.	No. Replaced with language in § 63.5560(b).
§ 63.9(a)	Notification Requirements.	Applicability and State delegation	Yes.
§ 63.9(b)(1) through (5)	Initial Notifications	Submit notification subject 120 days after effective date; notification of intent to construct or reconstruct; notification of commencement of construction or reconstruction; notification of startup; contents of each.	Yes.
§ 63.9(c)	Request for Compliance Extension.	Can request if cannot comply by date or if installed BACT/LAER.	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes.
§ 63.9(e)	Notification of Performance Test.	Notify Administrator 60 days prior	Yes.
§ 63.9(f)	Notification of VE or Opacity Test.	Notify Administrator 30 days prior	Yes, but only for flares for which EPA Method 22 observations are required as part of a flare compliance assessment.
§ 63.9(g)	Additional Notifications When Using CMS.	Notification of performance evaluation; notification using COMS data; notification that exceeded criterion for relative accuracy.	Yes, except that § 63.9(g)(2) does not apply because subpart UUUU does not require COMS.
§ 63.9(h)(1) through (6)	Notification of Compliance Status Report.	Contents; due 60 days after end of performance test or other compliance demonstration, except for opacity or VE, which are due 30 days after; when to submit to Federal vs. State authority.	Yes.
§ 63.9(i)	Adjustment of Submittal Deadlines.	Procedures for Administrator to approve change in when notifications must be submitted.	
§ 63.9(j)	Change in Previous Information.	Must submit within 15 days after the change.	Yes, except that the notification must be submitted as part of the next semi-annual compliance report, as specified in Table 8 to this subpart.
§ 63.10(a)	Recordkeeping and Reporting.	Applies to all, unless compliance extension; when to submit to Federal vs. State authority; procedures for owners of more than one source.	Yes.
§ 63.10(b)(1)	Recordkeeping and Reporting.	General requirements; keep all records readily available; keep for 5 years.	Yes.
§ 63.10(b)(2)(i)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns.	Records of occurrence and duration of each startup or shutdown that causes source to exceed emission limitation.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. Yes, for all other affected sources before **[DATE 181 DAYS AFTER PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]**, and No thereafter.

Citation	Subject	Brief description	Applies to subpart UUUU
§ 63.10(b)(2)(ii)	Recordkeeping of Failures to Meet a Standard.	Records of occurrence and duration of each malfunction of operation or air pollution control and monitoring equipment.	No, see Table 9 for recordkeeping of (1) date, time and duration; (2) listing of affected source or equipment, and an estimate of the quantity of each regulated pollutant emitted over the standard; and (3) actions to minimize emissions and correct the failure.
§ 63.10(b)(2)(iii)	Maintenance Records.	Records of maintenance performed on air pollution control and monitoring equipment.	Yes.
§ 63.10(b)(2)(iv) and (v)	Actions Taken to Minimize Emissions During SSM.	Records of actions taken during SSM to minimize emissions.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. Yes, for all other affected sources before **[DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]**, and No thereafter.
§ 63.10(b)(2)(vi), (x), and (xi)	CMS Records	Malfunctions, inoperative, out-of-control; calibration checks, adjustments, maintenance.	Yes.
§ 63.10(b)(2)(vii) through (ix)	Records	Measurements to demonstrate compliance with emission limits; performance test, performance evaluation, and opacity/VE observation results; measurements to determine conditions of performance tests and performance evaluations.	Yes, including results of EPA Method 22 observations required as part of a flare compliance assessment.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes.
§ 63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test.	Yes.
§ 63.10(b)(2)(xiv)	Records	All documentation supporting Initial Notification and Notification of Compliance Status Report.	Yes.
§ 63.10(b)(3)	Records	Applicability determinations	Yes.
§ 63.10(c)(1) through (6), (9) through (14).	Records	Additional records for CMS	Yes.
§ 63.10(c)(7) and (8)	Records	Records of excess emissions and parameter monitoring exceedances for CMS.	No. Replaced with language in Table 9 to this subpart.
§ 63.10(c)(15)	Use of SSM Plan	Use SSM plan to satisfy recordkeeping requirements for identification of malfunction, correction action taken, and nature of repairs to CMS.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. Yes, for all other affected sources before **[DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]**, and No thereafter.
§ 63.10(d)(1)	General Reporting Requirements.	Requirement to report	Yes.
§ 63.10(d)(2)	Report of Performance Test Results.	When to submit to Federal or State authority.	Yes, except that Table 7 to this subpart specifies the submittal date for the Notification of Compliance Status Report.
§ 63.10(d)(3)	Reporting Opacity or VE Observations.	What to report and when	Yes, but only for flares for which EPA Method 22 observations are required as part of a flare compliance assessment.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes.
§ 63.10(d)(5)(i)	Periodic SSM Reports.	Contents and submission of periodic SSM reports.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. Yes, for all other affected sources before **[DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]**, and No thereafter. See § 63.5580(c)(4) and Table 8 for malfunction reporting requirements.

Citation	Subject	Brief description	Applies to subpart UUUU
§ 63.10(d)(5)(ii)	Immediate SSM Reports.	Contents and submission of immediate SSM reports.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. Yes, for all other affected sources before **[DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]** except that the immediate SSM report must be submitted as part of the next semiannual compliance report, as specified in Table 8 to this subpart, and No thereafter.
§ 63.10(e)(1) and (2)	Additional CMS Reports.	Must report results for each CEMS on a unit; written copy of performance evaluation; three copies of COMS performance evaluation.	Yes, except that § 63.10(e)(2)(ii) does not apply because subpart UUUU does not require COMS.
§ 63.10(e)(3)(i) through (iii)	Reports	Schedule for reporting excess emissions and parameter monitor exceedance (now defined as deviations).	No. Replaced with language in § 63.5580.
§ 63.10(e)(3)(iv)	Excess Emissions Reports.	Requirement to revert to quarterly submission if there is an excess emissions and parameter monitor exceedance (now defined as deviations); provision to request semiannual reporting after compliance for 1 year; submit report by 30th day following end of quarter or calendar half; if there has not been an exceedance or excess emission (now defined as deviations), report contents is a statement that there have been no deviations.	No. Replaced with language in § 63.5580.
§ 63.10(e)(3)(v)	Excess Emissions Reports.	Must submit report containing all of the information in § 63.10(c)(5) through (13), § 63.8(c)(7) and (8).	No. Replaced with language in § 63.5580.
§ 63.10(e)(3)(vi) through (viii)	Excess Emissions Report and Summary Report.	Requirements for reporting excess emissions for CMS (now called deviations); requires all of the information in § 63.10(c)(5) through (13), § 63.8(c)(7) and (8).	No. Replaced with language in § 63.5580.
§ 63.10(e)(4)	Reporting COMS Data.	Must submit COMS data with performance test data.	No. Subpart UUUU does not require COMS.
§ 63.10(f)	Waiver for Recordkeeping or Reporting.	Procedures for Administrator to waive	Yes.
§ 63.11	Control and Work Practice Requirements.	Requirements for flares and alternative work practice for equipment leaks.	Yes.
§ 63.12	State Authority and Delegations.	State authority to enforce standards	Yes.
§ 63.13	Addresses	Addresses where reports, notifications, and requests are sent.	Yes.
§ 63.14	Incorporations by Reference.	Test methods incorporated by reference	Yes.
§ 63.15	Availability of Information and Confidentiality.	Public and confidential information	Yes.
§ 63.16	Performance Track Provisions.	Requirements for Performance Track member facilities.	Yes.

[FR Doc. 2019–18330 Filed 9–6–19; 8:45 am]

BILLING CODE 6560–50–P

Reader Aids

Federal Register

Vol. 84, No. 174

Monday, September 9, 2019

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6050**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.govinfo.gov.**

Federal Register information and research tools, including Public Inspection List and electronic text are located at: **www.federalregister.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html and select** *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

45873–46418 3
46419–46652 4
46653–46874 5
46875–47114 6
47115–47404 9

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
9917 46865
9918 46867
9919 46869
9920 46871
Executive Orders:
13885 46873

5 CFR

1650 46419
1651 46419

6 CFR

37 46423

7 CFR

253 45873
718 45877
1146 46653
1412 45877
Proposed Rules:
3565 45927

8 CFR

Proposed Rules:
103 46040
208 47148

10 CFR

430 46661
Proposed Rules:
430 ..... 46469, 46830

12 CFR

Proposed Rules:
337 46470

14 CFR

39 ..... 45895, 46426, 46429, 46432, 46434, 46875
71 ..... 46438, 46877
97 ..... 47115, 47116, 47118, 47120
Proposed Rules:
39 ..... 46496, 46896, 46898, 46900, 46903, 47170, 47173
71 46905

15 CFR

Proposed Rules:
922 45929

16 CFR

1229 46878

18 CFR

385 46438

19 CFR

12 46676
24 46678
141 46676

20 CFR

401 45900

21 CFR

Proposed Rules:
216 46688

26 CFR

301 ..... 46440, 46681
Proposed Rules:
1 ..... 47175, 47191

30 CFR

906 46184
Proposed Rules:
935 46703

31 CFR

515 47121
582 46440
Proposed Rules:
50 46907

32 CFR

318 46681
505 46681
806b 46882

33 CFR

100 ..... 45901, 46682
165 ..... 45903, 45905, 46882, 46883, 46885, 47123
Proposed Rules:
165 46498
167 46501

37 CFR

1 45907

40 CFR

52 ..... 45910, 45918, 46877, 46889, 46892
151 46100
180 ..... 47125, 47130, 47136
300 46684
Proposed Rules:
52 ..... 45930, 45931, 47211, 47213, 47216
63 ..... 46138, 46610, 47074, 47346
80 46909
81 47216
1042 46909

44 CFR

64 46685
Proposed Rules:
62 45933

46 CFR

10 47141

Proposed Rules:

502 45934
515 45934

47 CFR

25 47146
73 46920

48 CFR

801 46448
815 46448
816 46448
837 46448
849 46448
852 46448
871 46448

49 CFR

Proposed Rules:

382 46923
383 ....45938, 46923
384 ....45938, 46923
395 45940

50 CFR

21 45921
219 46788
622 45924
679 ....45295, 46457, 46458, 46686

Proposed Rules:

17 ....46927, 47231
635 45941

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List August 28, 2019

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.