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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Doc. No. AMS–SC–19–0011; SC19–966–2 FR]

Tomatoes Grown in Florida; Redistricting and Reapportionment of Producer Districts

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule implements a recommendation from the Florida Tomato Committee (Committee) to redistrict and reapportion producer representation on the Committee currently prescribed under the marketing order for tomatoes grown in Florida. This action will reduce the number of districts from four to two and reapportion producer membership on the Committee to provide equitable representation from both districts.

DATES: Effective October 28, 2019.

FOR FURTHER INFORMATION CONTACT: Steven W. Kauffman, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 291–8614, or Email: *Steven.Kauffman@usda.gov* or *Christian.Nissen@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@usda.gov.*

SUPPLEMENTARY INFORMATION: This final rule, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This final rule is issued under Marketing Agreement No. 125 and Marketing Order No. 966, as amended (7 CFR part 966), regulating the handling of tomatoes grown in Florida. Part 966 is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the marketing order and is comprised of producers operating within the production area.

The Department of Agriculture (USDA) is issuing this final rule in conformance with Executive Orders 13563 and 13175. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this final rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This final rule amends the Florida tomato districts and reapportions membership on the Committee as prescribed under the marketing order for the 2020–21 and subsequent fiscal periods. This final rule will reduce the number of districts from four to two and reapportion producer membership on the Committee to provide equitable representation from both districts. Redistricting and reapportionment of membership will make it easier for Committee staff to conduct producer nominations and ensure the appointment of a full Committee. A fully appointed Committee will make it easier to achieve a quorum for assembled meetings. The Committee unanimously recommended this change at its November 1, 2018, meeting.

Section 966.22 provides for the establishment of membership on the Committee. The 12 members and their alternates shall be producers, or officers or employees of a corporate producer, in the district for which selected and a resident of the production area. The marketing order provides districts from which producers serve as representatives on the Committee.

Section 966.25 provides the authority for the Committee to recommend, with the approval of the Secretary, reapportionment of members among districts, and the reestablishment of districts within the production area. This section also provides that, in making such recommendations, the Committee shall give consideration to: (a) Shifts in tomato acreage within districts and within the production area during recent years; (b) the importance of new production in its relation to existing districts; (c) the equitable relationship of Committee membership and districts; (d) economic results for producers in promoting efficient administration due to redistricting or reapportioning members within districts; and (e) other relevant factors.

Section 966.24 defined the four districts within the production area by county. Districts 1 and 2 have previously been reestablished pursuant to § 996.160. Section 966.161 apportions Committee membership among the districts pursuant to § 966.25. Currently, Districts 1 and 2 are represented by two Committee members and alternates each and Districts 3 and 4 are represented by four Committee members and alternates each.

The Committee met on November 1, 2018, to discuss the changes in recent years to production and the shift in acreage location of Florida tomatoes. Over the past two decades, the Florida

tomato industry has experienced significant changes in production volume and location. Decreasing production and shifts in acreage are due to increased production costs along with competition from imports and other growing regions. The increased costs and competition has contributed to a decrease in the number of producers and handlers. With fewer producers to represent the industry and the changes to production and acreage, the Committee discussed redistricting and reapportioning its membership.

Tomato production has shifted from the eastern part of the production area in Florida (Districts 1 and 2) to the western part of the production area (Districts 3 and 4). According to Committee data, production during the 2017–18 season in District 4 accounted for 56 percent of the production area's total production. The next largest district by production volume was District 3, accounting for 39 percent of total production. In comparison, District 1 accounted for 4 percent of total production and District 2 only 1 percent of the total volume for the production area.

According to Committee data, Districts 1 and 2 accounted for 28 percent of total production during the 1998–99 season but production had decreased to only 8 percent by the 2007–08 season. Industry production has slowly moved into Districts 3 and 4 over the last 20 years and now these two districts make up 95 percent of total production.

The shift in tomato production between districts has created an imbalance in Committee representation. The members from Districts 1 and 2 combined represent one-third of the membership on the Committee while these districts account for only 5 percent of the tomato production volume. Consequently, Districts 3 and 4 are underrepresented with only two-thirds of the Committee membership. During the discussion, Committee members reviewed acreage and production data from all districts in the production area as required in the marketing order. The gradual shift in acreage and production from the eastern portion of the production area in Florida to the western portion has made it difficult to find enough qualified producers to represent Districts 1 and 2 on the Committee. Committee members from these two districts represent four seats on the Committee. Committee members also noted that with fewer producers remaining in the Florida tomato industry, particularly in Districts 1 and 2, it is difficult to get enough members together to satisfy the marketing order's quorum requirements for a meeting.

As a result of the discussion and analysis, the Committee recommended combining the current Districts 1, 3, and a portion of District 2 into one district, and District 4 and the remaining portion of District 2 into another district. This change will divide the production area into two districts with each district representing approximately half of the total volume of tomatoes produced in the production area. The Committee also recommended reapportioning the 12 Committee members and alternates so that six Committee members and alternates represent each district.

The two new districts will encompass the following Florida counties: District 1 will include the counties of Charlotte, Glades, Palm Beach, Lee, Hendry, Collier, Broward, Monroe, and Dade; and District 2 will include the counties of Pinellas, Hillsborough, Polk, Osceola, Brevard, Manatee, Hardee, Highlands, Okeechobee, Indian River, St. Lucie, Sarasota, De Soto, and Martin.

The Committee unanimously voted to reduce the number of districts from four to two and reapportion producer membership on the Committee so that each district will have six members and alternates. The Committee believes these changes will adjust producer representation to reflect the composition of the industry, and create the opportunity for other producers to serve on the Committee.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 75 producers of Florida tomatoes in the production area and 37 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,500,000 (13 CFR 121.201).

According to industry and Committee data, the average annual price for fresh Florida tomatoes during the 2017–18 season was approximately $12.56 per 25-pound container, and total fresh shipments were 25.9 million containers. Using the average price and shipment information, the number of handlers, and assuming a normal distribution, the majority of handlers have average annual receipts of more than $7.5 million, ($12.56 times 25.9 million containers equals $325.3 million divided by 37 handlers equals $8.79 million per handler).

With an estimated producer price of $6.00 per 25-pound container, the number of Florida tomato producers, and assuming a normal distribution, the average annual producer revenue is above $750,000, ($6.00 times 25.9 million containers equals $155.4 million divided by 75 producers equals $2.07 million per producer). Thus, the majority of handlers and producers of Florida tomatoes may be classified as large entities.

The gradual shift in acreage and production from the eastern portion of the production area in Florida to the western portion has made it difficult to find enough qualified producers to represent Districts 1 and 2 on the Committee. Committee members from these two districts represent one-third of the seats on the Committee. Redistricting and reapportionment of membership will make it easier for Committee staff to conduct producer nominations, provide nominees for all seats, and readily achieve a quorum when meetings are assembled with a full complement of members.

This final rule will reduce the number of districts from four to two and reapportion producer membership on the Committee to provide six members and alternates from both districts. The Committee believes these changes will adjust producer representation to reflect the composition of the industry, provide equitable representation from each district, and create the opportunity for other producers to serve on the Committee. This rule revises §§ 966.160 and 966.161. Authority for this action is provided in § 966.25 of the marketing order.

It is not anticipated that this action would impose any additional costs on the industry. These changes will save time and operating resources by making it easier to find candidates to serve on the Committee. Additionally, a full Committee will reduce the chance of a failed quorum. Thus, this action will help avoid the costs associated with

travel and assembly of a meeting where a quorum is not achieved.

This action is expected to have a beneficial impact as it more accurately aligns districts and reapportions Committee membership in accordance with the production of fresh Florida tomatoes. These changes should provide equitable representation to producers on the Committee and make the Committee more representative of the current industry. The effects of this rule will not be disproportionately greater or less for small entities than for larger entities.

The Committee considered an alternative to this action. The Committee considered combining Districts 1 and 2 into one district. However, given the small volume of production currently produced in each of these districts, the Committee determined the best course of action was to divide the production area into two new districts with balanced production and representation. Therefore, this alternative was rejected.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the marketing order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178 Vegetable and Specialty Crops. No changes in those requirements are necessary as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This final rule will not impose any additional reporting or recordkeeping requirements on either small or large Florida tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. No public comments were received regarding the initial regulatory flexibility analysis.

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

The Committee's meetings were widely publicized throughout the Florida tomato industry, and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the November 1, 2018, meeting was a public meeting, and all entities, both large and small, were able to express their views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on April 24, 2019 (84 FR 17091). Copies of the proposed rule were sent via email to Committee members and Florida tomato handlers. Additionally, the rule was made available through the internet by USDA and the Office of the Federal Register. A 30-day comment period ending May 24, 2019, was provided to allow interested persons to respond to the proposal. No comments were received. Accordingly, no changes will be made to the rule as proposed.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses*. Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

■ 1. The authority citation for 7 CFR part 966 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. In § 966.160, revise paragraphs (a) and (b) to read as follows:

§ 966.160 Reestablishment of districts.

(a) District No. 1: The counties of Charlotte, Glades, Palm Beach, Lee, Hendry, Collier, Broward, Monroe, and Dade in the State of Florida.

(b) District No. 2: The counties of Pinellas, Hillsborough, Polk, Osceola, Brevard, Manatee, Hardee, Highlands, Okeechobee, Indian River, St. Lucie, Sarasota, De Soto, and Martin in the State of Florida.

* * * * *

■ 3. Revise § 966.161 to read as follows:

§ 966.161 Reapportionment of Committee Membership.

Pursuant to § 966.25, industry membership on the Florida Tomato Committee shall be reapportioned as follows:

(a) District 1—six members and their alternates.

(b) District 2—six members and their alternates.

Dated: September 17, 2019.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2019–20452 Filed 9–25–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[AMS–SC–18–0018; SC18–981–3]

Almonds Grown in California; Amendments to Marketing Order 981

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rulemaking action amends Marketing Order No. 981, which regulates the handling of almonds grown in California. The three amendments, which were proposed by the Almond Board of California (Board), were approved by producers in a referendum. The amendments will change the dates associated with the Board's nomination process, modify the term of office start date for Board members, and add authority for future revisions to these provisions through the development of regulations using informal rulemaking.

DATES: Effective October 28, 2019.

FOR FURTHER INFORMATION CONTACT: Geronimo Quinones, Marketing Specialist, or Andrew Hatch, Rulemaking Chief, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Geronimo.Quinones@usda.gov* or *Andrew.Hatch@usda.gov*.

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–

2491, Fax: (202) 720–8938, or Email: *Richard.Lower@usda.gov*.

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, finalizes amendments to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Order No. 981, as amended (7 CFR part 981), regulating the handling of almonds grown in California. Part 981 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' Section 608c(17) of the Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900) authorizes amendment of the marketing order through this informal rulemaking action.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 13563 and 13175. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This action has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of entry of the ruling.

Section 1504 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill)(Pub. L. 110–246) amended section 608c(17) of the Act, which in turn required the addition of supplemental rules of practice to 7 CFR part 900 (73 FR 49307; August 21, 2008). The amendment of section 608c(17) of the Act and additional supplemental rules of practice authorize the use of informal rulemaking (5 U.S.C. 553) to amend Federal fruit, vegetable, and nut marketing agreements and orders. USDA may use informal rulemaking to amend marketing orders based on the nature and complexity of the proposed amendments, the potential regulatory and economic impacts on affected entities, and any other relevant matters.

The USDA's Agricultural Marketing Service (AMS) considered these factors and determined that amending the Order as proposed could appropriately be accomplished through informal rulemaking.

The proposed amendments were unanimously recommended by the Board following deliberations at a public meeting held on December 4, 2017. A proposed rule soliciting comments on the proposed amendments was issued on July 2, 2018, and published in the **Federal Register** on July 6, 2018 (83 FR 31473). One comment was received, but it did not pertain to the proposal; therefore, no changes were made to the proposed amendments. A proposed rule and referendum order was then issued on November 7, 2018, and published in the **Federal Register** on November 14, 2018 (83 FR 56742). This document directed that a referendum among almond producers be conducted March 25, 2019, through April 5, 2019, to determine whether they favored the proposals. To become effective, the amendments had to be approved by two-thirds of eligible producers voting in the referendum or more than two-thirds of the volume represented in the referendum.

The three amendments were favored by at least 82 percent of the producers voting and by at least 89 percent of the volume represented, all of which exceed the requirements to pass.

The amendments in this final rule will change the dates associated with the Board's nomination process, modify the term of office start date for Board members, and add authority for future revisions to these provisions through the development of regulations using informal rulemaking.

Final Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 6,800 almond growers in the production area and approximately 100 almond handlers subject to regulation under the Order. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,500,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

The National Agricultural Statistics Service (NASS) reported in its 2012 Agricultural Census that there were 6,841 almond farms in the production area (California), of which 6,204 had bearing acres. The following computation provides an estimate of the proportion of agricultural producers (farms) and agricultural service firms (handlers) that would be considered small under the SBA definitions.

The NASS Census data indicate that out of the 6,204 California farms with bearing acres of almonds, 4,471 (72 percent) have fewer than 100 bearing acres.

For the almond industry's most recently reported crop year (2016), NASS reported an average yield of 2,280 pounds per acre and a season average grower price of $2.44 per pound. A 100-acre farm with an average yield of 2,280 pounds per acre would produce about 228,000 pounds of almonds. At $2.44 per pound, that farm's production would be valued at $556,320. The Census of Agriculture indicates that the majority of California's almond farms are smaller than 100 acres; therefore, it could be concluded that the majority of growers had annual receipts from the sale of almonds in 2016–17 of less than $556,320, which is below the SBA threshold of $750,000. Thus, over 70 percent of California's almond growers would be classified as small entities according to SBA's definition.

To estimate the proportion of almond handlers that would be considered small businesses, it was assumed that the unit value per shelled pound of almonds exported in a particular year could serve as a representative almond

price at the handler level. A unit value for a commodity is the value of exports divided by the quantity. Data from USDA's Foreign Agricultural Service showed that the value of almond exports from August 2016 to July 2017 (combining shelled and inshell almonds) was $4.072 billion. The quantity of almond exports over that period was 1.406 billion pounds, combining shelled exports and the shelled equivalent of inshell exports. Dividing the export value by the quantity yields a unit value of $2.90 per pound. Subtracting this figure from the NASS 2016 estimate of season average grower price per pound ($2.44) yields $0.46 per pound as a representative grower-handler margin. Applying the $2.90 representative handler price per pound to 2016–17 handler shipment quantities provided by the Board showed that approximately 40 percent of California's almond handlers shipped almonds valued under $7,500,000 during the 2016–17 crop year and would therefore be considered small entities according to the SBA definition.

These amendments, which the Board unanimously recommended on December 4, 2017, will change the dates associated with the Board's nomination process, modify the term of office start date for Board members, and add authority for future revisions to these provisions through the development of regulations using informal rulemaking.

These amendments will have no direct economic effect on producers or handlers. Due to changes in the industry, the amendments are necessary to ensure the Board's ability to locally administer the program. Changing nomination dates, modifying term of office, and adding authorizing for future revisions will enable the Board to ensure a more efficient and orderly flow of business. It is anticipated that both small and large producer and handler businesses will benefit from these amendments.

The Board considered alternatives to the proposals, including making no changes at this time. However, this action will streamline the Order's operation by aligning Board membership with the beginning of the crop year. There will be no change to the composition of the Board.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178 (Vegetable and Specialty Crops). No changes to those requirements are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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

The Board's meeting was widely publicized throughout the almond production area. All interested persons were invited to attend the meeting and encouraged to participate in Board deliberations on all issues.

A proposed rule concerning this action was published in the **Federal Register** on July 6, 2018 (83 FR 31473). Copies of the proposed rule were sent via email to all Board members and almond handlers. It was also made available through the internet by USDA and the Office of the Federal Register. A 60-day comment period ending September 4, 2018, was provided to allow interested persons to respond to the proposal. One comment was received, but it did not pertain to this proposal; therefore, no changes were made to the proposed amendments.

A proposed rule and referendum order was then issued on November 7, 2018, and published in the **Federal Register** on November 14, 2018 (83 FR 56742). This document directed that a referendum among almond producers be conducted March 25, 2019, through April 5, 2019, to determine whether they favored the proposals. To become effective, the amendments had to be approved by two-thirds of eligible producers voting in the referendum or by more than two-thirds of the volume represented in the referendum.

All three amendments were favored by at least 82 percent of the producers voting and at least 89 percent of the volume represented, all of which exceed the requirement to pass.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *https://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

Order Amending the Marketing Order Regulating the Handling of Almonds Grown in California [1]

Findings and Determinations

(a) Findings and Determinations Upon the Basis of the Rulemaking Record.

The findings hereinafter set forth are supplementary to the findings and determinations which were previously made in connection with the issuance of the Order; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

1. The Order, as amended, and as hereby further amended, and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

2. The Order, as amended, and as hereby further amended, regulates the handling of almonds grown in California in the same manner as, and is applicable only to, persons in the respective classes of commercial and industrial activity specified in the Order;

3. The Order, as amended, and as hereby further amended, is limited in application to the smallest regional production area that is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

4. The Order, as amended, and as hereby further amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of almonds produced in the production area; and

5. All handling of almonds produced in the production area as defined in the Order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) Determinations.

It is hereby determined that:

1. Handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping of almonds covered under the Order) who during the period August 1, 2017, through July 31, 2018, handled not less than 50 percent of the volume of such almonds covered by said Order,

[1] This Order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

as hereby amended, have signed an amended marketing agreement; and

2. The issuance of this amendatory Order, further amending the aforesaid Order, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of approval and who, during the period of August 1, 2017, through July 31, 2018, were engaged within the production area in the production of such almonds. Such producers also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

3. The issuance of this amendatory Order together with a signed marketing agreement advances the interests of growers of almonds in the production area pursuant to the declared policy of the Act.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, all handling of almonds grown in California shall be in conformity to, and in compliance with, the terms and conditions of the said Order as hereby proposed to be amended as follows:

The provisions amending the Order contained in the proposed rule issued by the Administrator on July 2, 2018, and published in the **Federal Register** on July 6, 2018, (83 FR 31473) will be and are the terms and provisions of this order amending the marketing order and are set forth in full herein.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

Dated: September 18, 2019.

Bruce Summers,

Administrator, Agricultural Marketing Service.

For the reasons set out in the preamble, 7 CFR part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Amend § 981.32 by revising paragraph (a)(1) and adding paragraph (a)(3) to read as follows:

§ 981.32 Nominations.

(a) *Method.* (1) Each year the terms of office of three of the members elected pursuant to § 981.31(a) and (b) shall expire, except every third year when the term of office for two of those members shall expire. Nominees for each respective member and alternate member shall be chosen by ballot delivered to the Board. Nominees chosen by the Board in this manner shall be submitted by the Board to the Secretary on or before June 1 of each year together with such information as the Secretary may require. If a nomination for any Board member or alternate is not received by the Secretary on or before June 1, the Secretary may select such member or alternate from persons belonging to the group to be represented without nomination. The Board shall mail to all handlers and growers, other than the cooperative(s) of record, the required ballots with all necessary voting information including the names of incumbents willing to accept renomination, and, to such growers, the name of any person proposed for nomination in a petition signed by at least 15 such growers and filed with the Board on or before April 1. Distribution of ballots shall be announced by press release, furnishing pertinent information on balloting, issued by the Board through newspapers and other publications having general circulation in the almond producing areas.

* * * * *

(3) The Board may recommend, subject to the approval of the Secretary, a change to the nomination method, should the Board determine that a revision is necessary.

* * * * *

■ 3. Amend § 981.33 by revising the first sentence of paragraphs (a) and (b) and the last sentence of paragraph (c) and adding paragraph (d) to read as follows:

§ 981.33 Selection and term of office.

(a) Members and their respective alternates for positions open on the Board shall be selected by the Secretary from persons nominated pursuant to § 981.32, or, at the discretion of the Secretary, from other qualified persons, for a term of office beginning August 1. * * *

(b) The term of office of members of the Board shall be for a period of three years beginning on August 1 of the years selected except where otherwise provided. * * *

(c) * * * This limitation on tenure shall not apply to alternate members.

(d) The Board may recommend, subject to approval of the Secretary, revisions to the start date for the term of office of members of the Board.

[FR Doc. 2019–20533 Filed 9–25–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0486; Product Identifier 2019–NM–061–AD; Amendment 39–19733; AD 2019–18–06]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A318–112, –121, and –122; A319–111, –112, –115, –131, –132, and –133; A320–214, –216, –232, –233, –251N, and –271N; and A321–211, –212, –213, –231, –232, –251N, –253N, –271N, and –272N airplanes. This AD was prompted by reports of missing or loosened fasteners on connecting brackets of overhead stowage compartments (OHSC) and pivoting OHSC (POHSC). This AD requires modification of the OHSC and POHSC attachments, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 31, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 31, 2019.

ADDRESSES: For the material incorporated by reference (IBR) in this AD, contact the EASA, at Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +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–2019–0486.

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–2019–0486; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A318–112, –121, and –122; A319–111, –112, –115, –131, –132, and –133; A320–214, –216, –232, –233, –251N, and –271N; and A321–211, –212, –213, –231, –232, –251N, –253N, –271N, and –272N airplanes. The NPRM published in the **Federal Register** on June 27, 2019 (84 FR 30637). The NPRM was prompted by reports of missing or loosened fasteners on connecting brackets of OHSC and pivoting POHSC. The NPRM proposed to require modification of the OHSC and POHSC attachments.

The FAA is issuing this AD to address loosening of the OHSC or POHSC fasteners. This condition, if not corrected, could lead to detachment of OHSC or POHSC, possibly resulting in injury to airplane occupants and/or impeding egress during an emergency evacuation.

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0069, dated March 28, 2019 (''EASA AD 2019–0069'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A318–112, –121, and –122; A319–111, –112, –115, –131, –132, and –133; A320–214, –216, –232, –233, –251N, and –271N; and A321–211, –212, –213, –231, –232, –251N, –253N, –271N, and –272N airplanes. The MCAI states:

> During routine inspections, several screws were found missing or loose on the interconnecting brackets of certain overhead stowage compartments (OHSC) and pivoting OHSC (POHSC). Investigations and a sampling program have shown that loosening of fasteners can be generated by a relative movement of the OHSC/POHSC and vibrations inside the aeroplane, by elastic deformation of the aeroplane body and by take-off and landing manoeuvres.
>
> This condition, if not corrected, could lead to detachment of an OHSC/POHSC, possibly resulting in injury to aeroplane occupants.
>
> To address this potential unsafe condition, Airbus issued the original issue of the applicable SB [service bulletin], providing modification instructions to improve the robustness of the OHSC and POHSC. Prompted by new findings, the applicable SBs have been later issued, including additional work and associated instructions.
>
> For the reasons described above, this [EASA] AD requires modification of the OHSC and POHSC attachments.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA has considered the comment received. Patrick Imperatrice indicated support for the NPRM.

Conclusion

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

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

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0069 describes procedures for modification of the OHSC and POHSC attachments. EASA AD 2019–0069 also describes an inspection for discrepancies (additional work) and corrective actions. The inspection includes checks of the dimensions of the threaded pins against tolerances and checks for damage. Corrective actions include replacing threaded pins and nuts and repairing damage. 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.

Costs of Compliance

The FAA estimates that this AD affects 1,464 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 42 work-hours × $85 per hour = Up to $3,570	$3,950	Up to $7,520	Up to $11,009,280

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 19 work-hours × $85 per hour = Up to $1,615	[*]	Up to $1,615 *

* The FAA has received no definitive data for the on-condition parts costs.

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–18–06 Airbus SAS: Amendment 39–19733; Docket No. FAA–2019–0486; Product Identifier 2019–NM–061–AD.

(a) Effective Date

This AD is effective October 31, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A318–112, –121, and –122; A319–111, –112, –115, –131, –132, and –133; A320–214, –216, –232, –233, –251N, and –271N; and A321–211, –212, –213, –231, –232, –251N, –253N, –271N, and –272N airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2019–0069, dated March 28, 2019 (''EASA AD 2019–0069'').

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Reason

This AD was prompted by reports of missing or loosened fasteners on connecting brackets of overhead stowage compartments (OHSC) and pivoting OHSC (POHSC). The FAA is issuing this AD to address loosening of the OHSC or POHSC fasteners. This condition, if not corrected, could lead to detachment of OHSC or POHSC, possibly resulting in injury to airplane occupants and/or impeding egress during an emergency evacuation.

(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, EASA AD 2019–0069.

(h) Exceptions to EASA AD 2019–0069

(1) For purposes of determining compliance with the requirements of this AD: Where EASA AD 2019–0069 refers to its effective date, this AD requires using the effective date of this AD.

(2) For purposes of determining compliance with the requirements of this AD: Paragraph (1) of EASA AD 2019–0069 applies to all airplanes except for airplanes identified by paragraph (2) of EASA AD 2019–0069.

(3) The ''Remarks'' section of EASA AD 2019–0069 does not apply to this AD.

(i) 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 (j) 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 Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* For any service information referenced in EASA AD 2019–0069 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223.

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2019–0069, dated March 28, 2019.

(ii) [Reserved]

(3) For information about EASA AD 2019–0069, contact the EASA, at Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany;

telephone +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.*

(4) You may view this 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. This material may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0486.

(5) You may view this material that is incorporated by reference at 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: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Des Moines, Washington, on September 6, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–20898 Filed 9–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0771; Product Identifier 2019–NE–27–AD; Amendment 39–19747; AD 2019–19–11]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Pratt & Whitney (PW) PW1519G, PW1521G, PW1521GA, PW1524G, PW1525G, PW1521G–3, PW1524G–3, PW1525G–3, PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines. This AD requires initial and repetitive inspections of the low-pressure compressor (LPC) inlet guide vane (IGV) and the LPC rotor 1 (R1) and, depending on the results of the inspections, possible replacement of the LPC. This AD was prompted by two recent in-flight shutdowns (IFSDs) that occurred as the result of failures of the LPC R1. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 26, 2019.

The FAA must receive comments on this AD by November 12, 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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Pratt & Whitney, 400 Main Street, East Hartford, CT 06118; phone: 800–565–0140; fax: 860–565–5442; email: *help24@pw.utc.com;* internet: *http://fleetcare.pw.utc.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0771.

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–2019–0771; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kevin M. Clark, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7088; fax: 781–238–7199; email: *kevin.m.clark@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA received reports of two recent IFSDs on PW PW1524G–3 model turbofan engines. The first IFSD occurred on July 25, 2019 and the second IFSD occurred on September 16, 2019. These IFSDs were due to failure of the LPC R1, which resulted in the LPC R1 releasing from the LPC case and damaging the engine. LPC rotor failures historically have released high-energy debris that has resulted in damage to engines and airplanes (see Advisory Circular (AC) 39–8, ''Continued Airworthiness Assessments of Powerplant and Auxiliary Power Unit Installations of Transport Category Airplanes,'' dated September 8, 2003, available at *rgl.faa.gov*).

Although these IFSDs occurred on PW PW1524G–3 model turbofan engines, the FAA is including PW PW1900 engines in the applicability of the AD because similarities in type design make these engines susceptible to the same unsafe condition as PW PW1500 engines. This condition, if not addressed, could result in uncontained release of the LPC R1, in-flight shutdown, damage to the engine, damage to the airplane, and loss of control of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

Related Service Information

The FAA reviewed Pratt & Whitney Service Bulletin (SB) PW1000G–A–72–00–0125–00A–930A–D, Issue No. 001, dated September 23, 2019, and PW SB PW1000G–A–72–00–0075–00B–930A–D, Issue No. 001, dated September 23, 2019. The SBs contain procedures for performing borescope inspections of the LPC R1 and the LPC IGV actuation system on engines that have less than 300 flight cycles since new.

FAA's Determination

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

AD Requirements

This AD requires initial and repetitive borescope inspections of the LPC IGV and the LPC R1 and, depending on the results of the inspections, replacement of the LPC.

Interim Action

The FAA considers this AD interim action. The investigation into the two recent failures on the PW PW1524G–3 model turbofan engines is on-going and the FAA may pursue further rulemaking action at a later date.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C.) authorizes agencies to dispense with notice and comment procedures

for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to the rulemaking. Similarly, Section 553(d) of the APA authorizes agencies to make rules effective in less than 30 days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule. Two PW1524G–3 model turbofan engines recently experienced failures of the LPC R1. LPC rotor failures can release high-energy debris from the engine and damage the airplane (see AC 39–8, ''Continued Airworthiness Assessments of Powerplant and Auxiliary Power Unit Installations of Transport Category Airplanes,'' dated September 8, 2003).

Both failures of the LPC R1 occurred at low flight cycles since new (154 and 230 flight cycles). The manufacturer has recommended that these inspections occur within the next 50 flight cycles and the FAA has adopted that recommendation. Based on current operational usage of the affected airplanes, 50 flight cycles equates to approximately 7 to 10 operating days. Therefore, the FAA has determined that low flight cycle rotors require inspections within the next 50 flight cycles from the effective date of this AD to prevent LPC R1 failures. Because of the need for operators to begin the required inspections within 50 flight cycles, the FAA has made this AD effective upon publication in the **Federal Register**. Accordingly, the FAA determined that the risk of operation of the affected engines without initial and repetitive inspections of the LPC IGV and the LPC R1 is unacceptable.

The FAA considers the need for initial and repetitive inspections of the LPC IGV and the LPC R1 to be an urgent safety issue. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to public interest pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the reasons stated above, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, the FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2019–0771 and Product Identifier 2019–NE–27–AD at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 18 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Borescope inspection per inspection cycle	4 work-hours × $85 per hour = $340	0	$340	$6,120

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace LPC	40 work-hours × $85 per hour = $3,400	$156,000	$159,400

Authority for This Rulemaking

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

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

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

delegated the authority to issue ADs applicable to engines, propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation Division.

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–19–11 Pratt & Whitney: Amendment 39–19747; Docket No. FAA–2019–0771; Product Identifier 2019–NE–27–AD.

(a) Effective Date

This AD is effective September 26, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pratt & Whitney Models PW1519G, PW1521G, PW1521GA, PW1524G, PW1525G, PW1521G–3, PW1524G–3, PW1525G–3, PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A turbofan engines that have accumulated fewer than 300 flight cycles.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by two recent in-flight shutdowns on PW PW1524G–3 model turbofan engines, due to failure of the low-pressure compressor (LPC) rotor 1 (R1). The FAA is issuing this AD to prevent failure of the LPC R1. The unsafe condition, if not addressed, could result in uncontained release of the LPC R1, damage to the engine, damage to the airplane, and loss of control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) Within 50 flight cycles from the effective date of this AD, and thereafter at intervals not to exceed 50 flight cycles until the engine accumulates 300 flight cycles, borescope inspect each LPC inlet guide vane (IGV) stem for proper alignment.

(2) Within 50 flight cycles from the effective date of this AD, and thereafter at intervals not to exceed 50 flight cycles until the engine accumulates 300 flight cycles, borescope inspect the LPC R1 for damage and cracks at the following locations:

(i) The blades tips;

(ii) the leading edge;

(iii) the leading edge fillet to rotor platform radius; and

(iv) the airfoil convex side root fillet to rotor platform radius.

(3) As the result of the inspections required by paragraphs (g)(1) and (2) of this AD, before further flight, remove and replace the LPC if:

(i) An IGV is misaligned; or

(ii) there is damage on an LPC R1 that exceeds serviceable limits; or

(iii) there is any crack in the LPC R1.

Note 1 to paragraph (g): Guidance on determining serviceable limits can be found in PW Service Bulletin (SB) PW1000G–A–72–00–0125–00A–930A–D, Issue No. 001, dated September 23, 2019, and PW SB PW1000G–A–72–00–0075–00B–930A–D, Issue No. 001, dated September 23, 2019.

(h) Definition

For the purpose of this AD, a misaligned IGV is an IGV that is rotated about its radial axis at a different angle than the remainder of the IGVs in the circumferential set.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

For more information about this AD, contact Kevin M. Clark, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7088; fax: 781–238–7199; email: *kevin.m.clark@faa.gov.*

(k) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on September 24, 2019.

Robert J. Ganley,

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

[FR Doc. 2019–21010 Filed 9–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0250; Product Identifier 2018–NM–157–AD; Amendment 39–19734; AD 2019–18–07]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2015–17–14, which applied to all Airbus SAS Model A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes, and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2015–17–14 required repetitive rototest inspections of the open tack holes and rivet holes at the cargo floor support fittings of the fuselage, including doing all applicable related investigative actions, and repair if necessary. This AD continues to require the actions of AD 2015–17–14, adds actions for certain airplanes, and reduces the compliance times for certain airplanes, as specified in an European Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD also reduces the applicability. This AD was prompted by further analysis and widespread fatigue damage (WFD) evaluations which identified the need to reduce the initial compliance times and repetitive intervals for the inspections for certain airplanes, and to add work for certain airplanes. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 31, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 31, 2019.

ADDRESSES: For the material incorporated by reference (IBR) in this AD, contact the EASA, at Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +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–2019–0250.

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–2019–0250; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0233R1, dated November 28, 2018 (''EASA AD 2018–0233R1'') (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A319 series airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. 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–2019–0250.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2015–17–14, Amendment 39–18247 (80 FR 52182, August 28, 2015) (''AD 2015–17–14''). AD 2015–17–14 applied to all Airbus SAS Model A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes, and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. The NPRM published in the **Federal Register** on April 24, 2019 (84 FR 17102). The NPRM was prompted by further analysis and WFD evaluations which identified the need to reduce the initial compliance times and repetitive intervals for the inspections for certain airplanes, and to add work for certain airplanes. The NPRM proposed to continue to require the actions of AD 2015–17–14. The NPRM also proposed to add actions for certain airplanes, and reduce the compliance times for certain airplanes. The FAA is issuing this AD to address cracking in the open tack holes and rivet holes at the cargo floor support fittings of the fuselage, which could affect the structural integrity of the airplane. See the MCAI for additional background information.

Comments

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

Request To Change Applicability

Delta TechOps (DAL) asked that the applicability identified in paragraph (c) of the proposed AD be changed by adding the following language: ''Serial number exceptions for Airbus production [modification] MOD status, as defined within the Applicability paragraph of EASA AD 2018–0233R1, are likewise acceptable for FAA AD applicability definition.'' DAL stated that paragraph (c) applies to certain A320 family aircraft identified in the EASA AD, and noted that paragraph 2 of the EASA AD provides additional applicability details, namely, excluding serial numbers from the applicability based on the Airbus MOD status.

The FAA acknowledges the commenter's request and offers the following clarification: The intent of the applicability identified in paragraph (c) of this AD is to match the applicability in EASA AD 2018–0233R1, for airplanes with an FAA-approved type certificate, including exceptions based on modifications. Therefore, no change to this AD is necessary in this regard.

Request To Change Method for Obtaining Corrective Actions

DAL asked that the method for obtaining corrective actions, as required by paragraph (g) of the proposed AD, be changed. DAL stated that those requirements entail complying with all required actions and compliance times specified in, and in accordance with, EASA AD 2018–0233R1. DAL added that, specifically, this means the method for obtaining all corrective actions is to contact Airbus. DAL asked that the method for obtaining corrective actions be changed as follows:

> If any crack is found during any inspection required by this AD: Before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

DAL noted that, as written, the proposed AD will limit authorization for corrective action solely to Airbus (EASA DOA), which restricts operator flexibility to obtain corrective action directly from the FAA or from the EASA.

The FAA disagrees with the commenter's request because the method proposed by the commenter is already provided in paragraph (i)(2) of this AD (as restated from the proposed AD), which in turn applies to paragraph (g) of this AD. Therefore, no change to this AD is necessary in this regard.

Request To Include Certain Deviations

DAL asked that a deviation paragraph be added to the exceptions in paragraph (h) of the proposed AD as follows: ''If accomplishing inspections according to a non-RC [required for compliance] revision of manufacturer Service Information, deviations from paragraphs other than paragraph 3.C. 'Procedures' do not require an [alternative method of compliance] AMOC.'' DAL stated that the inspection can be done using any revision of Airbus Service Bulletin A320–53–1257, and the original issue was not written in RC format. DAL added that operators have by now performed the initial inspection using the original issue of that service information. DAL noted that these inspections comply with the final rule because credit is allowed in EASA AD 2018–0233R1. DAL stated that it is possible that operators deviated from procedures outside of paragraph 3.C. when accomplishing a non-RC

formatted service information revision, or may never have incorporated Revision 01 or Revision 02.

The FAA disagrees with the commenter's request. EASA AD 2018–0233R1 requires inspecting in accordance with Revision 02 of Airbus Service Bulletin A320–53–1257. If the inspection is done using the original issue or Revision 01 of the service information, credit is given for compliance in EASA AD 2018–0233R1. Any deviation from the service information must comply with the procedures found in 14 CFR 39.19. Therefore, no change to this AD is necessary in this regard.

Request To Remove Corrosion Prevention Requirement

DAL stated that the application of CML 12ADB1 Corrosion Preventative Compound should not be considered an RC step. DAL noted that operators are responsible for maintaining their own corrosion prevention programs, and application of corrosion inhibiting compounds (CICs) during embodiment of ADs should not be included with the RC steps.

The FAA does not agree to remove the requirement to apply CIC. The application of CIC is necessary to address the unsafe condition, and to ensure that the correct CIC is used, this AD requires use of the CIC referenced in the service information that is identified in the MCAI for the applicable product. However, under the provisions of paragraph (i)(1) of this AD, the FAA will consider requests for approval of another corrosion prevention compound if sufficient data are submitted to substantiate that it would provide an acceptable level of safety. The FAA has not changed this AD regarding this issue.

Request To Clarify Requirements

United Airlines (UAL) asked if the intent of paragraph (g) of the proposed AD is that operators are required to comply with EASA AD 2018–0233R1 in its entirety, except as noted in paragraph (h) of the proposed AD, or just compliance with the section in EASA AD 2018–0233R1 titled ''Required Action(s) and Compliance Time(s).'' UAL stated that the proposed AD should provide clarification so operators know the specific parts of the EASA AD necessary for compliance.

The FAA agrees to clarify the requirements in paragraph (g) of this AD. This AD requires compliance with EASA AD 2018–0233R1 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this 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. The FAA has not changed this AD in this regard.

Request To Include Terminating Action and Credit for Previous Actions

JetBlue asked that the modification required by paragraph (8) of EASA AD 2018–0233R1 be added to the proposed AD as terminating action. The commenter also asked that credit be provided for actions done in accordance with FAA AD 2015–17–14 through related AMOCs.

The FAA acknowledges the commenter's request. However, the terminating action found in paragraph (8) of EASA AD 2018–0233R1 is already provided for in paragraph (g) of this AD, which requires complying with all required actions and compliance times specified in, and in accordance with, EASA AD 2018–0233R1. In addition, paragraph (i)(1)(ii) of this AD provides credit for AMOCs approved previously for AD 2015–17–14. Unless otherwise noted in this AD, all provisions of EASA AD 2018–0233R1 apply to the corresponding provisions of this AD. Therefore, the FAA has made no changes to this AD in this regard.

Conclusion

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

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

Related IBR Material Under 1 CFR Part 51

EASA AD 2018–0233R1 describes procedures for repetitive inspections of the open tack holes and rivet holes of the fuselage frames below the cargo floor support fittings for cracking. 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, and it is publicly available through the EASA website.

Costs of Compliance

The FAA estimates that this AD affects 1,009 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2015–17–14.	Up to 471 work-hours × $85 per hour = Up to $40,035.	$0	Up to $40,035	Up to $40,395,315.
New actions	Up to 474 work-hours × 85 per hour = Up to $40,290.	13,000	Up to $53,290	Up to $53,769,610.

The FAA has received no definitive data that enables the agency to provide cost estimates for the on-condition actions specified in this 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 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 AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2015–17–14, Amendment 39–18247 (80 FR 52182, August 28, 2015), and adding the following new AD:

2019–18–07 Airbus SAS: Amendment 39–19734; Docket No. FAA–2019–0250; Product Identifier 2018–NM–157–AD.

(a) Effective Date

This AD is effective October 31, 2019.

(b) Affected ADs

This AD replaces AD 2015–17–14, Amendment 39–18247 (80 FR 52182, August 28, 2015) (''AD 2015–17–14'').

(c) Applicability

This AD applies to Airbus SAS Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes; certificated in any category, as identified in European Aviation Safety Agency (EASA) AD 2018–0233R1, dated November 28, 2018 (''EASA AD 2018–0233R1'').

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by further analysis and widespread fatigue damage (WFD) evaluations and full-scale fatigue testing that indicated that several broken frames in certain areas of the cargo compartment were found, especially on the cargo floor support fittings and open tack holes on the left-hand side, which identified the need to reduce the initial compliance times and repetitive intervals for the inspections for certain airplanes, and to add work for certain airplanes. The FAA is issuing this AD to address cracking in the open tack holes and rivet holes at the cargo floor support fittings of the fuselage, which could affect the 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, EASA AD 2018–0233R1.

(h) Exceptions to EASA AD 2018–0233R1

(1) For purposes of determining compliance with the requirements of this AD: Where EASA AD 2018–0233R1 refers to ''the effective date of the original issue of this AD,'' this AD requires using the effective date of this AD, and where EASA AD 2018–0233R1 refers to ''the effective date of EASA AD 2013–0310,'' this AD requires using October 2, 2015 (the effective date of AD 2015–17–14).

(2) The ''Remarks'' section of EASA AD 2018–0233R1 does not apply to this AD.

(i) 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 (j) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(i) 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.

(ii) AMOCs approved previously for AD 2015–17–14 are approved as AMOCs for the corresponding provisions of EASA AD 2018–0233R1 that are required by paragraph (g) of this AD.

(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 Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC)*: For any service information referenced in EASA AD 2018–0233R1 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223.

(k) Material Incorporated by Reference

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

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

(i) European Aviation Safety Agency (EASA) AD 2018–0233R1, dated November 28, 2018.

(ii) [Reserved]

(3) For EASA AD 2018–0233R1, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +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.*

(4) 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 2018–0233R1 may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0250.

(5) You may view this material that is incorporated by reference at 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: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–20893 Filed 9–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0521; Product Identifier 2019–NM–047–AD; Amendment 39–19740; AD 2019–19–04]

RIN 2120–AA64

Airworthiness Directives; Saab AB, Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Saab AB, Saab Aeronautics Model SAAB 2000 airplanes. This AD was prompted by reports of cracks in the o-ring groove of magnetic fuel level indicators. This AD requires a one-time detailed inspection of the magnetic fuel level indicator for cracks and replacement of cracked magnetic fuel level indicators. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 31, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 31, 2019.

ADDRESSES: For service information identified in this final rule, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab2000.techsupport@saabgroup.com;* internet *http://www.saabgroup.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0521.

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–2019–0521; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220.

SUPPLEMENTARY INFORMATION:

Discussion

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0053, dated March 14, 2019 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Saab AB, Saab Aeronautics Model SAAB 2000 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Saab AB, Saab Aeronautics Model SAAB 2000 airplanes. The NPRM published in the **Federal Register** on July 3, 2019 (84 FR 31775). The NPRM was prompted by reports of cracks in the o-ring groove of magnetic fuel level indicators. The NPRM proposed to require a one-time detailed inspection of the magnetic fuel level indicator for cracks and replacement of cracked magnetic fuel level indicators.

The FAA is issuing this AD to address cracks in the o-ring groove of magnetic fuel level indicators, which, if not detected and corrected, could result in a severe fuel leak and consequent risk of fuel starvation. See the MCAI for additional background information.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Saab AB, Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems) has issued Service Bulletin 2000–28–027, dated January 15, 2019. This service information describes procedures for a one-time detailed inspection of the magnetic fuel level indicator for cracks and replacement of cracked magnetic fuel level indicators. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 11 airplanes of U.S. registry. The agency estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
6 work-hours × $85 per hour = $510	$0	$510	$5,610

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
2 work-hours × $85 per hour = $170	$20,000	$20,170

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–19–04 Saab AB, Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems): Amendment 39–19740; Docket No. FAA–2019–0521; Product Identifier 2019–NM–047–AD.

(a) Effective Date

This AD is effective October 31, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Saab AB, Saab Aeronautics Model SAAB 2000 airplanes, certificated in any category, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Reason

This AD was prompted by reports of cracks in the o-ring groove of magnetic fuel level indicators. The FAA is issuing this AD to address this condition, which, if not detected and corrected, could result in a severe fuel leak and consequent risk of fuel starvation.

(f) Compliance

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

(g) Definitions

(1) For the purposes of this AD, an affected part is any magnetic fuel level indicator having part number 35081587.

(2) For the purposes of this AD, a serviceable part is an affected part that is new (not previously installed); or an affected part that, before installation, has passed an inspection in accordance with the instructions of Saab Service Bulletin 2000–28–027, dated January 15, 2019.

(h) Inspection

Within 3,000 flight hours or 24 months, whichever occurs first after the effective date of this AD, remove and perform a one-time detailed inspection of each affected part for cracks in accordance with the Accomplishment Instructions of Saab Service Bulletin 2000–28–027, dated January 15, 2019.

(i) Corrective Action

If, during the inspection required by paragraph (h) of this AD, any crack is detected on an affected part, before further flight, replace that affected part with a serviceable part in accordance with the Accomplishment Instructions of Saab Service Bulletin 2000–28–027, dated January 15, 2019.

(j) No Parts Return

Although Saab Service Bulletin 2000–28–027, dated January 15, 2019, specifies to return faulty parts to the manufacturer, this AD does not require returning the faulty parts to the manufacturer.

(k) Parts Installation Limitation

As of the effective date of this AD, installation of an affected part is allowed on an airplane, provided it is a serviceable part as defined in paragraph (g)(2) of this AD.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (m)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal

inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Union Aviation Safety Agency (EASA); or Saab AB, Saab Aeronautics's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2019–0053, dated March 14, 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–2019–0521.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220.

(n) Material Incorporated by Reference

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

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

(i) Saab Service Bulletin 2000–28–027, dated January 15, 2019.

(ii) [Reserved]

(3) For service information identified in this AD, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab2000.techsupport@saabgroup.com;* internet *http://www.saabgroup.com.*

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

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

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

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–20895 Filed 9–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0453; Product Identifier 2018–NM–028–AD; Amendment 39–19732; AD 2019–18–05]

RIN 2120–AA64

Airworthiness Directives; De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Model DHC–8–400 series airplanes. This AD was prompted by reports of the nose landing gear (NLG) locking in a partially extended position due to loose bushings on the lock link of the NLG locking mechanism. This AD requires repetitive inspections of the bushings and the lower lock link of the NLG for discrepancies, and corrective actions if necessary. This AD also requires replacement of the lower lock link of the NLG, which terminates the repetitive inspections. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 31, 2019.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 31, 2019.

ADDRESSES: For service information identified in this final rule, contact De Havilland Aircraft of Canada Ltd., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone: 416–375–4000; fax: 416–375–4539; email: *thd@dehavilland.com;* internet: *https://dehavilland.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0453.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0453; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, New York ACO Branch, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model DHC–8–400 series airplanes. The NPRM published in the **Federal Register** on May 30, 2018 (83 FR 24694). The NPRM was prompted by reports of the NLG locking in a partially extended position due to loose bushings on the lock link of the NLG locking mechanism. The NPRM proposed to require inspecting the bushings and the lower lock link of the NLG for discrepancies, and corrective actions if necessary.

The FAA issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model DHC–8–400 series airplanes. The SNPRM published in the **Federal Register** on June 7, 2019 (84 FR 26601). The FAA issued the SNPRM to add a requirement to replace the lower lock link of the NLG, which would terminate the repetitive inspections proposed in the NPRM. The SNPRM also proposed to reduce the applicability in the NPRM.

The FAA is issuing this AD to address excessive free play at the lock link of the NLG locking mechanism, and consequent inability to fully retract or deploy the NLG, which could result in collapse of the NLG and affect the safe landing of the airplane.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2018–01R1, dated January 21, 2019 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe

condition for certain De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Model DHC–8–400 series airplanes. The MCAI states:

A landing incident took place whereby the aeroplane's nose landing gear (NLG) was locked in a partially-extended position, leading to gear collapse upon NLG touch down. The investigation revealed that the NLG was locked in this position due to the bushings on the lock link of the NLG locking mechanism becoming loose. This condition was present due to insufficient interference fit which resulted in some bushing outer diameter wear and fretting. A dislodged bushing will also cause the bushing sealant to break. Broken sealant allows moisture ingress and corrosion that can accelerate free play buildup. Excessive free play at the lock link can result in the inability to fully retract or deploy the NLG, resulting in a risk of NLG collapse on landing.

Bombardier Inc. has developed an inspection to identify and correct this condition. The original version of this [Canadian] AD required a repetitive inspection [to detect discrepancies] and corrective actions based on the inspection findings.

Revision 1 of this [Canadian] AD is issued to modify the NLG with a lower lock with improved bushing retention and greasing provisions. Implementing this modification is a terminating action to this [Canadian] AD. The modification has been introduced in production, therefore the applicability of this [Canadian] AD has been reduced. Clarifications have also been made to the retained text of the original version.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0453.

Comments

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

Request To Revise Certain Requirements

Horizon Air asked that the requirement to do the actions specified in paragraph (k) of the proposed AD in accordance with paragraph 3.A. of the Accomplishment Instructions of Bombardier Service Bulletin 84–32–154, Revision A, dated November 21, 2018, be removed. Horizon Air stated that the job setup specified in paragraph 3.A. of the referenced service information does not directly correct the unsafe condition. Horizon Air would like only the actions specified in paragraph 3.B. of the referenced service information mandated.

The FAA does not agree with the commenter's request. For some ADs, the job setup actions in the associated service information do not affect the actions to correct the unsafe condition. However, for this AD, the FAA has determined that to adequately perform the corrective actions the job setup actions specified in Bombardier Service Bulletin 84–32–154, Revision A, dated November 21, 2018, must be accomplished. Paragraph 3.A., ''Job Set-Up,'' of Bombardier Service Bulletin 84–32–154, Revision A, dated November 21, 2018, includes specific procedures for the NLG to be in the correct configuration for the corrective actions to be done and prevent damage to the equipment. Therefore, the FAA has not changed this AD in this regard.

Request To Install Post-UTC Aerospace Systems Spare Parts

Horizon Air asked that installation of NLG drag strut assemblies having part number 47300–7A, 47300–9A, or 47300–11A, serviced in accordance with UTC Aerospace Systems Vendor Service Bulletin (VSB) 47300–32–138 R3, be allowed as terminating action for the repetitive inspections. Horizon Air stated that UTC Aerospace Systems VSB 47300–32–138 R3 can be done on units not installed on the airplane.

The FAA agrees to clarify. NLG drag strut assemblies can be serviced (lower lock links replaced and affected parts re-identified) by accomplishing UTC Aerospace Systems VSB 47300–32–138 R3, as specified in Bombardier Service Bulletin 84–32–154, Revision A, dated November 21, 2018. However, operators must still show compliance with paragraph 3.A. and Steps 3.B.(1), 3.B.(4) and 3.B.(5) of the Accomplishment Instructions of Bombardier Service Bulletin 84–32–154, Revision A, dated November 21, 2018, for the removal of a unit which has not been serviced, and installation of a serviced spare unit, in order to correct the unsafe condition. In addition, paragraph (f) of this AD specifies ''Comply with this AD within the compliance times specified, unless already done.'' Therefore, if some of the corrective actions have been done, only the remaining corrective actions must be completed to comply with this AD. The FAA has not changed this AD in this regard.

Explanation of Change Made to This Final Rule

The FAA has revised this final rule to identify the legal name of the manufacturer as published in the most recent type certificate data sheet for the affected airplane models.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Bombardier has issued the following service information:

- Service Bulletin 84–32–153, Revision A, dated February 27, 2018, which describes procedures for general visual inspections of the bushings and the lower lock link of the NLG for discrepancies. The service information also describes procedures for repair or replacement of the lock link if any discrepancy is found.
- Service Bulletin 84–32–154, Revision A, dated November 21, 2018, which describes procedures for replacement of the existing lock link with a new lock link.

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

Costs of Compliance

The FAA estimates that this AD affects 64 airplanes of U.S. registry.

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	2 work-hours × $85 per hour = $170 per inspection cycle.	$0	$170 per inspection cycle	$10,880 per inspection cycle.

ESTIMATED COSTS FOR REQUIRED ACTIONS—Continued

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement	6 work-hours × $85 per hour = $510.	5,923	$6,433	$411,712

The FAA has received no definitive data that enables the agency to provide cost estimates for the on-condition actions specified in this 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 AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–18–05 De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.): Amendment 39–19732; Docket No. FAA–2018–0453; Product Identifier 2018–NM–028–AD.

(a) Effective Date

This AD is effective October 31, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Model DHC–8–400, –401, and –402 airplanes, certificated in any category, serial numbers 4001 through 4585 inclusive, and 4587.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by reports of the nose landing gear (NLG) locking in a partially extended position due to loose bushings on a lock link of the NLG locking mechanism. The FAA is issuing this AD to address excessive free play at the lock link of the NLG locking mechanism, and consequent inability to fully retract or deploy the NLG, which could result in collapse of the NLG and affect the safe landing of the airplane.

(f) Compliance

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

(g) Repetitive Inspections and Corrective Actions

Except as provided by paragraphs (h) and (i) of this AD: Do a general visual inspection for the NLG lower lock link part number and discrepancies of the bushings and of the lower lock link of the NLG locking mechanism, at the applicable time specified in paragraph (g)(1) or (2) of this AD, in accordance with paragraphs 3.A. and 3.B., or 3.A. and 3.D., as applicable, of the Accomplishment Instructions of Bombardier Service Bulletin 84–32–153, Revision A, dated February 27, 2018. If any discrepancy is found, before further flight, repair or replace the NLG lower lock link, as applicable, in accordance with paragraphs 3.B. or 3.D, as applicable, of Bombardier Service Bulletin 84–32–153, Revision A, dated February 27, 2018. Repeat the inspection thereafter at intervals not to exceed 1,600 flight cycles on any NLG lower lock link.

(1) For airplanes on which an NLG lower lock link has accumulated 7,200 or fewer total flight cycles as of the effective date of this AD: Before the accumulation of 8,000 total flight cycles on the NLG lower lock link.

(2) For airplanes on which an NLG lower lock link has accumulated more than 7,200 total flight cycles as of the effective date of this AD: Within 800 flight cycles on the NLG lower lock link after the effective date of this AD.

(h) Inspections After Repair or Replacement of NLG Lower Lock Link

For airplanes with an NLG lower lock link that is repaired or replaced as specified in any one of paragraphs (h)(1) through (4) of this AD: The next inspection specified by paragraph (g) of this AD is required for the NLG lower lock link on the airplane at the applicable time specified in figure 1 to the introductory text of paragraph (h) of this AD.

FIGURE 1 TO THE INTRODUCTORY TEXT OF PARAGRAPH (h)—Compliance Times for Next Inspection on Repaired or Replaced NLG Lower Lock Link

Flight cycles	Compliance time
Airplanes on which the NLG lower lock link has accumulated 7,200 or fewer flight cycles since the NLG lower link was repaired or replaced.	Before the accumulation of 8,000 flight cycles on the NLG lower lock link since the repair or replacement.
Airplanes on which the NLG lower lock link has accumulated more than 7,200 flight cycles since the NLG lower link was repaired or replaced.	Within 800 flight cycles on the NLG lower lock link after the effective date of this AD.

(1) Repaired as specified in Bombardier Repair Drawing 8/4–32–0338;

(2) Repaired as specified in the Goodrich Aerospace Canada Ltd. Component Maintenance Manual, Part Number (P/N) 47300, 32–21–03;

(3) Replaced with a serviceable lock link having P/N 47324–1 (SCR–093–17–B); or

(4) Replaced with a new lock link having P/N 47324–1.

(i) Lock Link Excepted From Inspection Requirements

The inspections specified in this AD are not required for any new NLG lower lock link having P/N 47324–3.

(j) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–32–153, dated September 22, 2017, provided all drag strut joints were greased, as specified in paragraphs 3.B.(1)(h) and 3.D.(1)(c)*5* of the Accomplishment Instructions of this service information, using aircraft maintenance manual (AMM) Task 12–20–01–640–802.

(k) Terminating Action for Repetitive Inspections

Within 8,000 flight cycles or 48 months on the NLG lower lock link after the effective date of this AD, whichever occurs first: Replace the existing NLG lower lock link with a new lower lock link having P/N 47324–3, in accordance with paragraphs 3.A. and 3.B. of the Accomplishment Instructions of Bombardier Service Bulletin 84–32–154, Revision A, dated November 21, 2018. Replacement of the lower lock link on the NLG terminates the repetitive inspections required by paragraphs (g) and (h) of this AD for that airplane.

(l) 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 New York ACO Branch, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; 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.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2018–01R1, dated January 21, 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–2018–0453.

(2) For more information about this AD, contact Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, New York ACO Branch, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531.

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

(n) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 84–32–153, Revision A, dated February 27, 2018.

(ii) Bombardier Service Bulletin 84–32–154, Revision A, dated November 21, 2018.

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

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

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

Issued in Des Moines, Washington, on September 9, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–20897 Filed 9–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0699; Product Identifier 2019–NM–148–AD; Amendment 39–19736; AD 2019–18–09]

RIN 2120–AA64

Airworthiness Directives; Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 382, 382B, 382E, 382F, and 382G airplanes; and Model C–130A, HP–C–130A, EC–130Q, and C–130B airplanes. This AD requires a visual inspection of the center wing upper and lower rainbow fittings for cracks, an eddy current inspection of the center wing lower rainbow fittings for cracks, and replacement if necessary. This AD was prompted by reports of cracked inner tangs of the center wing lower rainbow fittings. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 11, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 11, 2019.

The FAA must receive comments on this AD by November 12, 2019.

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

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

For service information identified in this final rule, contact Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, Customer Support Center, Dept. 3E1M, Zone 0591, 86 S. Cobb Drive, Marietta, GA 30063; telephone 770–494–5444; fax 770–494–5445; email *hercules.support@lmco.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0699.

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–2019–0699; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Carl Gray, Aerospace Engineer, Airframe Section, FAA, Atlanta ACO Branch, 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5554; fax: 404–474–5606; email: *carl.w.gray@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA received reports of cracked inner tangs of the center wing lower rainbow fitting. Each tang (node) contains a single attachment bolt to the outer wing. If three or more tangs fail, the rainbow fitting can no longer carry limit load and the rainbow fitting may fail. This condition, if not addressed, could result in failure of the center wing lower rainbow fittings, wing separation, and loss of the airplane.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Lockheed Martin Aeronautics Company Alert Service Bulletin A382–57–98, Revision 1, dated August 16, 2019. This service information describes procedures for a visual inspection of the center wing upper and lower rainbow fittings for cracks, an eddy current inspection of the center wing lower rainbow fittings for cracks, and replacement if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

AD Requirements

This AD requires accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between this AD and the Service Information.''

Impact on Intrastate Aviation in Alaska

In light of the heavy reliance on aviation for intrastate transportation in Alaska, the FAA fully considered the effects of this AD (including costs to be borne by affected operators) from the earliest possible stages of AD development. This AD is based on those considerations, and was developed with regard to minimizing the economic impact on operators to the extent possible, consistent with the safety objectives of this AD. In any event, the Federal Aviation Regulations require operators to correct an unsafe condition identified on an airplane to ensure operation of that airplane in an airworthy condition. The FAA has determined in this case that the requirements are necessary and the indirect costs would be outweighed by the safety benefits of the AD.

Differences Between This AD and the Service Information

Lockheed Martin Aeronautics Company Alert Service Bulletin A382–57–98, Revision 1, dated August 16, 2019, specifies that, for certain airplanes, Service Bulletin 382–57–97, or the results of a Lockheed Martin Operational Usage Evaluation (OUE) should be used to determine the number of flight hours on the center wing lower rainbow fittings. This AD would not allow the use of Service Bulletin 382–57–97 or the OUE to determine the number of flight hours on the center wing lower rainbow fittings, because Service Bulletin 382–57–97 and the OUE have not been approved by the FAA. If operators are unable to determine the number of flight hours on the center wing lower rainbow fittings, they must do the actions required by this AD within 30 days after the effective date of this AD.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because cracked inner tangs of the center wing lower rainbow fittings could result in failure of the center wing lower rainbow fittings, wing separation, and loss of the airplane. Furthermore, based upon the age of the fleet it is likely that many airplanes are beyond the threshold specified in this AD. Thus, the compliance time for the required action is shorter than the time necessary for the public to comment and for publication of the final rule.

Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the reasons stated above, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an

opportunity for public comment. However, the FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2019–0699 and Product Identifier 2019–NM–148–AD at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *http://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Carl Gray, Aerospace Engineer, Airframe Section, FAA, Atlanta ACO Branch, 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5554; fax: 404–474–5606; email: *carl.w.gray@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 30 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	16 work-hours × $85 per hour = $1,360	$0	$1,360	$40,800

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement	740 work-hours × $85 per hour = $62,900	$15,000	$77,900

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–18–09 Lockheed Martin Corporation/Lockheed Martin Aeronautics Company: Amendment 39–19736; Docket No. FAA–2019–0699; Product Identifier 2019–NM–148–AD.

(a) Effective Date

This AD is effective October 11, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all airplanes specified in paragraphs (c)(1) and (2) of this AD, certificated in any category.

(1) Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 382, 382B, 382E, 382F, and 382G airplanes.

(2) The airplanes specified in paragraphs (c)(2)(i) through (x), type certificated in the restricted category.

(i) LeSEA Model C–130A airplanes, Type Certificate Data Sheet (TCDS) A34SO, Revision 1.

(ii) T.B.M, Inc., (transferred from Central Air Services, Inc.) Model C–130A airplanes, TCDS A39CE, Revision 3.

(iii) Western International Aviation, Inc., Model C–130A airplanes, TCDS A33NM.

(iv) USDA Forest Service Model C–130A airplanes, TCDS A15NM, Revision 4.

(v) Snow Aviation International, Inc., Model C–130A, TCDS TQ3CH, Revision 1.

(vi) Heavylift Helicopter, Inc., Model C–130A, TCDS A31NM, Revision 1.

(vii) Hawkins & Powers Aviation, Inc., Model HP–C–130A, TCDS A30NM, Revision 1.

(viii) Coulson Aviation (USA), Inc., Model EC–130Q, TCDS T00019LA, Revision 2.

(ix) Lockheed-Georgia Company, 282–44A–05, Model C–130B, TCDS A5SO.

(x) Surplus Model C–130A airplanes.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of cracked inner tangs of the center wing lower rainbow fittings. The FAA is issuing this AD to address such cracks, which could result in failure of the center wing lower rainbow fittings, wing separation, and loss of the airplane.

(f) Compliance

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

(g) Inspections

Except as specified in paragraph (h) of this AD: Before the accumulation of 15,000 flight hours on the lower center wing rainbow fitting, or within 30 days after the effective date of this AD, whichever occurs later, do the inspections required by paragraphs (g)(1) and (2) of this AD, in accordance with the Accomplishment Instructions of Lockheed Martin Aeronautics Company Alert Service Bulletin A382–57–98, Revision 1, dated August 16, 2019. If any cracks are found during any inspection required by paragraphs (g)(1) and (2) of this AD, replace the rainbow fitting before further flight.

(1) Do a visual inspection of the center wing upper and lower rainbow fittings for any cracks.

(2) Do an eddy current inspection of the center wing lower rainbow fittings for any cracks.

(h) Compliance Time Exception

For any airplane on which the number of flight hours on the lower rainbow fitting cannot be determined, do the inspections required by paragraphs (g)(1) and (2) of this AD within 30 days after the effective date of this AD.

(i) No Reporting

Although Lockheed Martin Aeronautics Company Alert Service Bulletin A382–57–98, Revision 1, dated August 16, 2019, specifies to report inspection findings, this AD does not require any report.

(j) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Lockheed Martin Aeronautics Company Alert Service Bulletin A382–57–98, dated August 9, 2019.

(k) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a location where the airplane can be modified, provided no more than two tangs (nodes) are found cracked during any inspection required by paragraph (g) of this AD.

(l) Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by a Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Designated Engineering Representative (DER) that has been authorized by the Manager, Atlanta ACO Branch, FAA, to make those findings. To be approved, the repair, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(m) Related Information

(1) For more information about this AD, contact Carl Gray, Aerospace Engineer, Airframe Section, FAA, Atlanta ACO Branch, 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5554; fax: 404–474–5606; email: *carl.w.gray@faa.gov.*

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

(n) Material Incorporated by Reference

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

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

(i) Lockheed Martin Aeronautics Company Alert Service Bulletin A382–57–98, Revision 1, dated August 16, 2019.

(ii) [Reserved]

(3) For service information identified in this AD, contact Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, Customer Support Center, Dept. 3E1M, Zone 0591, 86 S. Cobb Drive, Marietta, GA 30063; telephone 770–494–5444; fax 770 494–5445; email *hercules.support@lmco.com.*

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

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

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

Suzanne Masterson,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–20855 Filed 9–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0325; Product Identifier 2019–NM–038–AD; Amendment 39- 19739; AD 2019–19–03]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Embraer S.A. Model ERJ 170 airplanes; Model ERJ 190–100 STD, –100 LR, –100 ECJ, and –100 IGW airplanes; and Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes. This AD was prompted by reports of the ram air turbine (RAT) compartment door seal peeling off and tangling up on the RAT rotor during flight test. This AD requires a general visual inspection for peeling-off of the RAT compartment door seal, bonding if necessary, and the rework of the RAT compartment door seal attachment. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 31, 2019.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 31, 2019.

ADDRESSES: For service information identified in this final rule, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—Brasil; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* internet *http://www.flyembraer.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0325.

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–2019–0325; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Krista Greer, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3221.

SUPPLEMENTARY INFORMATION:

Discussion

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian AD 2019–02–02, dated February 28, 2019 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Embraer S.A. Model ERJ 170 airplanes; Model ERJ 190–100 STD, –100 LR, –100 ECJ, and –100 IGW airplanes; and Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes. 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–2019–0325.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Embraer S.A. Model ERJ 170 airplanes; Model ERJ 190–100 STD, –100 LR, –100 ECJ, and –100 IGW airplanes; and Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes. The NPRM published in the **Federal Register** on May 29, 2019 (84 FR 24730). The NPRM was prompted by reports of the RAT compartment door seal peeling off and tangling up on the RAT rotor during flight test. The NPRM proposed to require a general visual inspection for peeling-off of the RAT compartment door seal, bonding if necessary, and the rework of the RAT compartment door seal attachment.

The FAA is issuing this AD to address the possible loss of the RAT function, which, when associated with an emergency electrical event, can result in the loss of airplane controllability. See the MCAI for additional background information.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The following presents the comments received on the NPRM and the FAA's response to each comment. The Air Line Pilots Association, International (ALPA) expressed support for the NPRM.

Request To Extend Compliance Time

JetBlue Airways and SkyWest Airlines Inc. requested an extension of the compliance time in paragraph (g)(1) of the proposed AD from 750 flight hours to 2,500 flight hours or 12 months. The commenters asserted that the new interval would align with the scheduled Maintenance Review Board tasks on the RAT, and that performing the AD at the same time as scheduled tasks would decrease the logistical burden of compliance.

The FAA disagrees with the commenters' request because the proposal contains no justification to show that an acceptable level of safety would be maintained. The FAA may, however, consider approving a longer compliance time as an alternative method of compliance (AMOC) with paragraph (g)(1) of this AD if sufficient substantiation is provided to show an acceptable level of safety. This AD has not been changed in this regard.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Embraer S.A. has issued Service Bulletin SB170–53–0142, Revision 01, dated December 12, 2018; Service Bulletin SB190–53–0098, Revision 01, dated December 12, 2018; and Service Bulletin SB190LIN–53–0072, Revision 01, dated January 9, 2019. This service information describes procedures for an inspection of the RAT compartment door seal, bonding, and rework of the RAT compartment door seal attachment, which includes installing fasteners around the RAT door seal attachment. These documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 570 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS *

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
3 work-hours × $85 per hour = $255	$0	$255	$145,350

* The FAA has received no definitive data that would enable the agency to provide a parts cost estimate for the actions specified in this AD.

The FAA has received no definitive data that would enable the agency to provide cost estimates for the on-condition actions specified in this 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 AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–19–03 Embraer S.A.: Amendment 39–19739; Docket No. FAA–2019–0325; Product Identifier 2019–NM–038–AD.

(a) Effective Date

This AD is effective October 31, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Embraer S.A. airplanes, identified in paragraphs (c)(1) through (3) of this AD, certificated in any category.

(1) Model ERJ 170–100 LR, –100 STD, –100 SE, and –100 SU airplanes; and Model ERJ 170–200 LR, –200 SU, –200 STD, and –200 LL airplanes, as identified in Embraer Service Bulletin SB170–53–0142, Revision 01, dated December 12, 2018.

(2) Model ERJ 190–100 STD, –100 LR, and –100 IGW airplanes; and ERJ 190–200 STD, –200 LR, and –200 IGW airplanes, as identified in Embraer Service Bulletin SB190–53–0098, Revision 01, dated December 12, 2018.

(3) Model ERJ 190–100 ECJ airplanes, as identified in Embraer Service Bulletin SB190LIN–53–0072, Revision 01, dated January 9, 2019.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by reports of the ram air turbine (RAT) compartment door seal peeling off and tangling up on the RAT rotor during flight test. The FAA is issuing this AD to address the possible loss of the RAT function, which, when associated with an emergency electrical event, could result in the loss of airplane controllability.

(f) Compliance

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

(g) Inspection and Rework

(1) For airplanes identified in paragraph (c)(1) of this AD: Within 750 flight hours after the effective date of this AD, do a general visual inspection of the RAT compartment door seal for peeling-off conditions (disbonding), do all applicable bonding, and rework the RAT compartment door seal attachment, in accordance with the Accomplishment Instructions of the service information identified in paragraph (c)(1) of this AD. Do all applicable bonding before further flight.

(2) For airplanes identified in paragraph (c)(2) of this AD: Within 750 flight hours after the effective date of this AD, do a general visual inspection of the RAT compartment door seal for peeling-off conditions (disbonding), do all applicable bonding, and rework the RAT compartment door seal attachment, in accordance with the Accomplishment Instructions of the service information identified in paragraph (c)(2) of this AD. Do all applicable bonding before further flight.

(3) For airplanes identified in paragraph (c)(3) of this AD: Within 400 flight hours or 6 months after the effective date of this AD, whichever occurs first, do a general visual inspection of the RAT compartment door seal for peeling-off conditions (disbonding), do all applicable bonding, and rework the RAT compartment door seal attachment, in accordance with the Accomplishment Instructions of the service information identified in paragraph (c)(3) of this AD. Do all applicable bonding before further flight.

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Embraer Service Bulletin 170–53–0142, dated December 8, 2017; Embraer Service Bulletin 190–53–0098, dated December 8, 2017; or Embraer Service Bulletin 190LIN–53–0072, dated December 15, 2017; as applicable.

(i) 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 (j)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the Agência Nacional de Aviação Civil (ANAC); or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

(3) *Required for Compliance (RC):* Except as specified by paragraphs (g) and (i)(2) of this AD: For service information that contains steps that are labeled as RC, the provisions of paragraphs (i)(3)(i) and (ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Brazilian AD 2019–02–02, dated February 28, 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–2019–0325.

(2) For more information about this AD, contact Krista Greer, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3221.

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

(k) Material Incorporated by Reference

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

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

(i) Embraer Service Bulletin SB170–53–0142, Revision 01, dated December 12, 2018.

(ii) Embraer Service Bulletin SB190–53–0098, Revision 01, dated December 12, 2018.

(iii) Embraer Service Bulletin 190LIN–53–0072, Revision 01, dated January 9, 2019.

(3) For service information identified in this AD, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—Brasil; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* internet *http://www.flyembraer.com.*

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

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

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

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–20894 Filed 9–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

RIN 0648–BG02

Designation of Mallows Bay-Potomac River National Marine Sanctuary; Notification of Effective Date

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notification of effective date.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) provides notice that the designation and the final regulations to implement the designation of Mallows Bay-Potomac River National Marine Sanctuary (MPNMS) published on July 8, 2019 became effective on September 3, 2019.

DATES: The notification of designation and final regulations published on July 8, 2019 (84 FR 32586) became effective on September 3, 2019.

FOR FURTHER INFORMATION CONTACT: Paul Orlando, Regional Coordinator, Office of National Marine Sanctuaries at 240–460–1978, *paul.orlando@noaa.gov,* or Mallows Bay-Potomac River National Marine Sanctuary, c/o NOAA Office of National Marine Sanctuaries, 1305 East West Hwy., 11th Floor, Silver Spring, MD 20910, Attention: Paul Orlando, Regional Coordinator.

SUPPLEMENTARY INFORMATION: The MPNMS is 18 square miles of waters and submerged lands encompassing and surrounding the Mallows Bay area of the tidal Potomac River. The area is located entirely within Maryland state waters, adjacent to the Nanjemoy Peninsula of Charles County, Maryland. The sanctuary protects nationally-significant maritime cultural heritage resources, including the fragile, historic remains of more than 100 World War I (WWI)-era U.S. Emergency Fleet Corporation (USEFC) wooden steamships known as the ''Ghost Fleet,'' vessels related to the historic ship-breaking operations, other non-USEFC vessels of historic significance, and related maritime debris fields. The area also includes Native American sites, remains of historic fisheries operations, and Revolutionary and Civil War battlescapes. The significance of the area is recognized through its listing on the National Register of Historic Places (National Register Listing Number 15000173, April 24, 2015). NOAA, the State of Maryland, and Charles County, Maryland, will jointly manage MPNMS.

Pursuant to Section 304(b) of the National Marine Sanctuaries Act (NMSA)(16 U.S.C. 1434(b)), NOAA published the designation and final regulations to implement the designation of MPNMS on July 8, 2019 (84 FR 32586). As required by the NMSA, the designation and regulations became effective following the close of a review period of 45 days of continuous session of Congress beginning on the date of publication, unless the Governor of the State of Maryland certifies to the Secretary of Commerce that the designation or any of its terms is unacceptable. The Governor did not certify that the designation or

any of its terms is unacceptable within the review period prescribed under the NMSA. Accordingly, NOAA announces the designation and the final regulations to implement the designation of MPNMS became effective on September 3, 2019.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Paul M. Scholz,

Chief Financial Officer/Chief Administrative Officer, National Ocean Service.

[FR Doc. 2019–20608 Filed 9–25–19; 8:45 am]

BILLING CODE 3510–NK–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 201, 229, 230, and 240

[Release No. 34–86982; File No. S7–09–17]

Technical Amendments To Update Cross-References to Commission's FOIA Regulations

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; technical amendments.

SUMMARY: The Securities and Exchange Commission (''SEC'' or ''Commission'') is adopting technical amendments to update cross-references to reflect amendments to the Commission's Freedom of Information Act (''FOIA'') regulations published as a final rule on June 28, 2018.

DATES: Effective September 26, 2019.

FOR FURTHER INFORMATION CONTACT: Mark Tallarico, Senior Counsel, (202) 551–5132, Office of the General Counsel, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–9150.

SUPPLEMENTARY INFORMATION:

I. Background

On June 28, 2018, the Commission published a final rule amending its FOIA regulations at 17 CFR 200.80 (Securities and Exchange Commission records and information). Because of the breadth of the amendments, the final rule removed the Commission's prior FOIA regulations in their entirety (§ 200.80 and appendices A through F) and replaced them with new regulations (§ 200.80).

In light of the 2018 amendments of its FOIA regulations, the Commission is now adopting technical amendments to other sections of title 17, chapter II of the Code of Federal Regulations to update cross-references to the Commission's FOIA regulations (§ 200.80) that are contained in those sections.

II. Administrative Law Matters

The Administrative Procedure Act (''APA'') generally requires an agency to publish notice of a rulemaking in the **Federal Register** and provide an opportunity for public comment. This requirement does not apply, however, if the agency ''for good cause finds . . . that notice and public procedure are impracticable, unnecessary, or contrary to the public interest.'' [1] The technical amendments do not impose any new substantive regulatory requirements on any person. The technical amendments merely update cross-references in the Commission's regulations. These amendments are therefore ministerial in nature. For these reasons, there is good cause for the Commission to find that it is unnecessary to publish notice of these amendments in the **Federal Register** or to solicit public comment thereon.[2] Although the APA generally requires publication of a rule at least 30 days before its effective date, for similar reasons we further find there is good cause for the amendments to take effect on September 26, 2019. Additionally, the provisions of the Regulatory Flexibility Act, which apply only when notice and comment are required by the APA or other law, are not applicable.[3] These amendments do not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995.[4]

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

III. Economic Analysis

We are adopting technical amendments to update cross-references to Commission rules in light of recent amendments to the Commission's FOIA regulations. These amendments merely make conforming changes to Commission rules that cross-reference the FOIA regulations and do not impose any substantive regulatory obligations on any person or otherwise. We expect the amendments to help eliminate potential confusion that could result from outdated cross-references. We do not believe they will have any substantial economic effects, including on efficiency, competition, or capital formation. Further, because the amendments impose no new burdens on private parties, the Commission does not believe that the amendments will have any impact on competition for purposes of section 23(a)(2) of the Securities Exchange Act of 1934 (''Exchange Act'').[6]

IV. Statutory Authority

These technical amendments are adopted pursuant to statutory authority granted to the Commission under Section 19(a) of the Securities Act of 1933 and section 23(a) of the Exchange Act.

List of Subjects

17 CFR Part 200

Authority delegations (Government agencies), Freedom of information, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

17 CFR Part 201

Administrative practice and procedure.

17 CFR Part 229

Reporting and recordkeeping requirements.

17 CFR Part 230

Confidential business information, Reporting and recordkeeping requirements.

17 CFR Part 240

Confidential business information, Reporting and recordkeeping requirements.

Text of Amendments

For the reasons set out above, the Commission is amending title 17, chapter II, of the Code of Federal Regulations as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart A—Organization and Program Management

■ 1. The general authority citation for part 200, subpart A, continues to read as follows:

Authority: 15 U.S.C. 77c, 77*o*, 77s, 77z–3, 77sss, 78d, 78d–1, 78d–2, 78*o*–4, 78w, 78*ll*(d), 78mm, 80a–37, 80b–11, 7202, and 7211 *et seq.,* unless otherwise noted.

* * * * *

■ 2. Amend § 200.30–14 by revising paragraph (c) to read as follows:

[1] U.S.C. 553(b)(3)(B).

[2] This finding also satisfies the requirements of 5 U.S.C. 808(2), allowing the amendments to become effective notwithstanding the requirement of 5 U.S.C. 801.

[3] 5 U.S.C. 601 *et seq.*

[4] 44 U.S.C. 3501 *et seq.*

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

[6] 15 U.S.C. 78w(a)(2).

§ 200.30–14 Delegation of authority to the General Counsel.

* * * * *

(c) Determine the appropriate disposition of all Freedom of Information Act and confidential treatment appeals in accordance with §§ 200.80(f) and (g)(12) and 200.83(e), (f), and (h).

* * * * *

Subpart D—Information and Requests

■ 3. The general authority citation for part 200, subpart D, continues to read as follows:

Authority: 5 U.S.C. 552, as amended, 15 U.S.C. 77f(d), 77s, 77ggg(a), 77sss, 78m(F)(3), 78w, 80a–37, 80a–44(a), 80a–44(b), 80b–10(a), and 80b–11, unless otherwise noted.

* * * * *

■ 4. Amend § 200.83 by revising paragraphs (c)(8), (f), and (g) to read as follows:

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

* * * * *

(c) * * *

(8) A confidential treatment request shall be nonpublic. If an action is filed in a Federal court, however, by either the Freedom of Information Act requester (under 5 U.S.C. 552(a)(4) and § 200.80(f)) or by the confidential treatment requester (under paragraph (e)(5) of this section), the confidential treatment request may become part of the court record.

* * * * *

(f) *Initial determination that confidential treatment is warranted.* If it is determined by the Commission's Freedom of Information Act Officer that confidential treatment is warranted, the person submitting the information and the person requesting access to the information under the Freedom of Information Act will be so informed by mail. The person requesting access, pursuant to the Freedom of Information Act, will also be informed of the right to appeal the determination to the General Counsel. Any such appeal must be taken in accordance with the provisions of the Freedom of Information Act and Commission rules thereunder. *See* 17 CFR 200.80(f).

(g) *Confidential treatment request and substantiation as nonpublic.* Any confidential treatment request and substantiation of it shall be nonpublic. If an action is filed in a Federal court, however, by the Freedom of Information Act requester (under 5 U.S.C. 552(a)(4) and § 200.80(f)) or by the confidential treatment requester (under paragraph (e)(5) of this section), both the request and substantiation may become part of the public court record.

* * * * *

Subpart I—Regulations Pertaining to Public Observation of Commission Meetings

■ 5. The authority citation for part 200, subpart I, continues to read as follows:

Authority: 5 U.S.C. 552b, unless otherwise noted. Section 200.410 also is issued under 29 U.S.C. 794.

■ 6. Amend § 200.408 by revising paragraph (a) to read as follows:

§ 200.408 Public access to transcripts and minutes of closed Commission meetings; record retention.

(a) *Public access to record.* Within 20 days (excluding Saturdays, Sundays, and legal holidays) of the receipt by the Commission's Freedom of Information Act (''FOIA'') Officer of a written request, or within such extended period as may be agreeable to the person making the request, the Secretary shall make available for inspection by any person in the Commission's Public Reference Room, the transcript, electronic recording, or minutes (as required by § 200.407(a) or (b)) of the discussion of any item on the agenda, except for such item or items as the Freedom of Information Act Officer determines to involve matters which may be withheld under § 200.402 or otherwise. Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication, as identified on the FOIA web page of the Commission's website at *http://www.sec.gov,* and, if a transcript is prepared, the actual cost of such transcription.

* * * * *

PART 201—RULES OF PRACTICE

Subpart D—Rules of Practice

■ 7. The authority citation for part 201, subpart D, continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77h-1, 77j, 77s, 77u, 77sss, 77ttt, 78c(b), 78d–1, 78d–2, 78*l,* 78m, 78n, 78*o*(d), 78*o*–3, 78*o*–10(b)(6), 78s, 78u–2, 78u–3, 78v, 78w, 80a–8, 80a–9, 80a–37, 80a–38, 80a–39, 80a–40, 80a–41, 80a–44, 80b–3, 80b–9, 80b–11, 80b–12, 7202, 7215, and 7217.

■ 8. Amend § 201.230 by revising paragraph (f) to read as follows:

§ 201.230 Enforcement and disciplinary proceedings: Availability of documents for inspection and copying.

* * * * *

(f) *Copying costs and procedures.* The respondent may obtain a photocopy of any documents made available for inspection. The respondent shall be responsible for the cost of photocopying. Unless otherwise ordered, charges for copies made by the Division of Enforcement at the request of the respondent will be at the rate charged pursuant to the fee schedule identified on the Freedom of Information Act (''FOIA'') web page of the Commission's website at *http://www.sec.gov* for copies. The respondent shall be given access to the documents at the Commission's offices or such other place as the parties may agree during normal business hours for copying of documents at the respondent's expense.

* * * * *

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

■ 9. The authority citation for part 229 continues to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78j–3, 78*l,* 78m, 78n, 78n–1, 78*o,* 78u–5, 78w, 78*ll,* 78mm, 80a–8, 80a–9, 80a–20, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a), 80a–39, 80b–11 and 7201 *et seq.;* 18 U.S.C. 1350; sec. 953(b), Pub. L. 111–203, 124 Stat. 1904 (2010); and sec. 102(c), Pub. L. 112–106, 126 Stat. 310 (2012).

Subpart 229.400—Management and Certain Security Holders

■ 10. Amend § 229.402 by revising paragraph 4 in the Instructions to Item 402(b) following paragraph (b)(2)(xv) to read as follows:

§ 229.402 (Item 402) Executive compensation.

* * * * *

(b) * * *

(2) * * *

(xv) * * *

Instructions to Item 402(b).

* * * * *

4. Registrants are not required to disclose target levels with respect to specific quantitative or qualitative performance-related factors considered by the compensation committee or the board of directors, or any other factors or criteria involving confidential trade secrets or confidential commercial or financial information, the disclosure of which would result in competitive harm

for the registrant. The standard to use when determining whether disclosure would cause competitive harm for the registrant is the same standard that would apply when a registrant requests confidential treatment of confidential trade secrets or confidential commercial or financial information pursuant to Securities Act Rule 406 (17 CFR 230.406) and Exchange Act Rule 24b–2 (17 CFR 240.24b–2), each of which incorporates the criteria for non-disclosure when relying upon Exemption 4 of the Freedom of Information Act (5 U.S.C. 552(b)(4)). A registrant is not required to seek confidential treatment under the procedures in Securities Act Rule 406 and Exchange Act Rule 24b–2 if it determines that the disclosure would cause competitive harm in reliance on this instruction; however, in that case, the registrant must discuss how difficult it will be for the executive or how likely it will be for the registrant to achieve the undisclosed target levels or other factors.

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 11. In part 230:

■ a. The general authority citation for part 230 continues to read as set forth below; and

■ b. The specific authority citation for §§ 230.400 to 230.499 is revised; and

■ c. A specific authority citation for § 230.457 is added.

The authorities read as follows:

Authority: 15 U.S.C. 77b, 77b note, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z–3, 77sss, 78c, 78d, 78j, 78*l,* 78m, 78n, 78o, 78o–7 note, 78t, 78w, 78*ll*(d), 78mm, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, and Pub. L. 112–106, sec. 201(a), sec. 401, 126 Stat. 313 (2012), unless otherwise noted.

* * * * *

Sections 230.400 to 230.499 issued under secs. 6, 8, 10, 19, 48 Stat. 78, 79, 81, and 85, as amended (15 U.S.C. 77f, 77h, 77j, 77s).

Sec. 230.457 also issued under secs. 6 and 7, 15 U.S.C. 77f and 77g.

* * * * *

Regulation C—Registration

■ 12. The authority citation under the undesignated center heading ''Regulation C—Registration'' is removed.

■ 13. Amend § 230.406 by:

■ a. Removing preliminary notes (1) and (2);

■ b. Adding introductory text; and

■ c. Revising paragraph (b)(2)(ii).

The addition and revision read as follows:

§ 230.406 Confidential treatment of information filed with the Commission.

Confidential treatment of supplemental information or other information not required to be filed under the Act should be requested under 17 CFR 200.83 and not under this rule. All confidential treatment requests shall be submitted in paper format only, whether or not the filer is an electronic filer. *See* Rule 101(c)(1)(i) of Regulation S–T (§ 232.101(c)(1)(i) of this chapter).

* * * * *

(b) * * *

(2) * * *

(ii) A statement of the grounds of the objection referring to and analyzing the applicable exemption(s) from disclosure under the Freedom of Information Act (5 U.S.C. 552) and a justification of the period of time for which confidential treatment is sought;

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1934

■ 14. The general authority citation for part 240 continues to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c–3, 78c–5, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l,* 78m, 78n, 78n–1, 78*o,* 78*o*–4, 78*o*–10, 78p, 78q, 78q–1, 78s, 78u–5, 78w, 78x, 78*ll,* 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, 7201 *et seq.;* and 8302; 7 U.S.C. 2(c)(2)(E); 12 U.S.C. 5221(e)(3); 18 U.S.C. 1350; and Pub. L. 111–203, 939A, 124 Stat. 1887 (2010); and secs. 503 and 602, Pub. L. 112–106, 126 Stat. 326 (2012), unless otherwise noted.

* * * * *

Subpart A—Rules and Regulations Under the Securities Exchange Act of 1934

■ 15. Amend § 240.10A–1 by revising paragraph (c) introductory text to read as follows:

§ 240.10A–1 Notice to the Commission Pursuant to Section 10A of the Act.

* * * * *

(c) A notice or report submitted to the Office of the Chief Accountant in accordance with paragraphs (a) and (b) of this section shall be deemed to be an investigative record and shall be nonpublic and exempt from disclosure pursuant to the Freedom of Information Act to the same extent and for the same periods of time that the Commission's investigative records are nonpublic and exempt from disclosure under, among other applicable provisions, 5 U.S.C. 552(b)(7). Nothing in this paragraph, however, shall relieve, limit, delay, or affect in any way, the obligation of any issuer or any independent accountant to make all public disclosures required by law, by any Commission disclosure item, rule, report, or form, or by any applicable accounting, auditing, or professional standard.

* * * * *

■ 16. Amend § 240.24b–2 by revising paragraph (b)(2) to read as follows:

§ 240.24b–2 Nondisclosure of information filed with the Commission and with any exchange.

* * * * *

(b) * * *

(2) An application making objection to the disclosure of the confidential portion. Such application shall be on a sheet or sheets separate from the confidential portion, and shall contain:

(i) An identification of the portion;

(ii) A statement of the grounds of objection referring to, and containing an analysis of, the applicable exemption(s) from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)), and a justification of the period of time for which confidential treatment is sought;

(iii) A written consent to the furnishing of the confidential portion to other government agencies, offices or bodies and to the Congress; and

(iv) The name of each exchange, if any, with which the material is filed.

* * * * *

By the Commission.

Dated: September 17, 2019.

Vanessa Countryman,

Secretary.

[FR Doc. 2019–20369 Filed 9–25–19; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. OSHA–2015–0015]

RIN 1218–AC94

Additional Ambient Aerosol CNC Quantitative Fit Testing Protocols: Respiratory Protection Standard

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule.

SUMMARY: OSHA is approving two additional quantitative fit testing protocols for inclusion in appendix A of the Respiratory Protection Standard. These protocols are: The modified

ambient aerosol condensation nuclei counter (CNC) quantitative fit testing protocol for full-facepiece and half-mask elastomeric respirators and the modified ambient aerosol CNC quantitative fit testing protocol for filtering facepiece respirators. The protocols apply to employers in general industry, shipyard employment, and the construction industry. Both protocols are abbreviated variations of the original OSHA-approved ambient aerosol CNC quantitative fit testing protocol (often referred to as the PortaCount® protocol), but differ from the test by the exercise sets, exercise duration, and sampling sequence. These protocols will serve as alternatives to the four existing quantitative fit testing protocols already listed in appendix A of the Respiratory Protection Standard and will maintain safety and health protections for workers while providing additional flexibility and reducing compliance burdens.

DATES: The final rule becomes effective on September 26, 2019.

ADDRESSES: In accordance with 28 U.S.C. 2112(a), the agency designates Edmund Baird, Acting Associate Solicitor of Labor for Occupational Safety and Health, Office of the Solicitor of Labor, Room S–4004, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, to receive petitions for review of the final rule.

FOR FURTHER INFORMATION CONTACT:

General information and press inquiries: Frank Meilinger, Director, Office of Communications; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

Technical inquiries: Natalia Stakhiv, Directorate of Standards and Guidance; telephone: (202) 693–2272; email: *stakhiv.natalia@dol.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background
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I. Background

Appendix A of OSHA's Respiratory Protection Standard (29 CFR 1910.134) currently contains four quantitative fit testing protocols: Generated aerosol; ambient aerosol condensation nuclei counter (CNC); controlled negative pressure (CNP); and controlled negative pressure REDON. TSI Incorporated (''TSI'') proposed the ambient aerosol CNC protocol—often called the PortaCount® protocol after the CNC instrument manufactured by TSI—in 1987. OSHA allowed the ambient aerosol CNC protocol for fit testing under a compliance interpretation published in 1988. OSHA eventually incorporated that protocol into appendix A of the Respiratory Protection Standard when it revised the standard in 1998.

In 2006, TSI submitted two additional quantitative fit testing protocols to OSHA for approval and inclusion in appendix A of the Respiratory Protection Standard. These protocols were modified, abbreviated versions of the original ambient aerosol CNC protocol already approved by OSHA and listed in appendix A. OSHA published a notice of proposed rulemaking (NPRM) on January 21, 2009 (74 FR 3526) to include the two protocols in its Respiratory Protection Standard, but later concluded that they were not sufficiently accurate or reliable. OSHA withdrew the proposed rule without prejudice on January 27, 2010 (75 FR 4323), and invited the developers to resubmit the two protocols after addressing the issues of concern listed in the withdrawal notification. In 2014, TSI submitted three new quantitative fit testing protocols for OSHA approval. These three protocols also were modified, abbreviated versions of the original ambient aerosol CNC protocol, but different from the two protocols TSI submitted to OSHA in 2006.

Part II of appendix A of OSHA's Respiratory Protection Standard specifies the procedure for adding new fit testing protocols to the standard. Under that procedure, if OSHA receives an application for a new fit testing protocol meeting certain criteria, it must commence a rulemaking proceeding to consider adopting the proposed protocol. These criteria are: (1) A test report prepared by an independent government research laboratory (*e.g.,* Lawrence Livermore National Laboratory, Los Alamos National Laboratory, the National Institute for Standards and Technology) stating that the laboratory tested the protocol and found it to be accurate and reliable; or (2) an article published in a peer-reviewed industrial hygiene journal describing the protocol and explaining how the test data support the protocol's accuracy and reliability. TSI's 2014 application for approval of three new quantitative fit testing protocols met the second criterion. OSHA considers such proposals under the notice-and-comment rulemaking procedures specified in Section 6(b)(7) of the Occupational Safety and Health Act of 1970 (the ''Act'') (29 U.S.C. 655(b)(7)).

II. Summary and Explanation of the Final Rule

A. Proposed Rulemaking

In July 2014, TSI submitted an application requesting that OSHA approve three new quantitative fit testing protocols for inclusion in appendix A of OSHA's Respiratory Protection Standard (OSHA–2015–0015–0003). These three protocols were modified, abbreviated versions of the original ambient aerosol CNC protocol approved by OSHA and listed in appendix A, but different from the ones submitted to OSHA by TSI in 2006. TSI's application included three peer-reviewed articles (''the Richardson studies'') describing the accuracy and reliability of TSI's proposed protocols.[1] The application letter also included a copy of the 2010 ANSI/AIHA (American National Standards Institute/American Industrial Hygiene Association) Z88.10 ''Respirator Fit Testing Methods'' standard (''the ANSI standard''), which contains ''Annex A2: Criteria for Evaluating New Fit Test Methods'' (''the ANSI annex'') (OSHA–2015–0015–0007). TSI also submitted two white papers: One describing TSI's analysis of its talking exercise data and the second describing TSI's process and rationale behind the fit test exercises that were employed in the Richardson studies (OSHA–2015–0015–0001, OSHA–2015–0015–0008). OSHA determined that the information submitted in TSI's application met the criteria required for initiating a rulemaking to determine whether OSHA should approve the new protocols and add them to appendix A of the Respiratory Protection Standard. OSHA issued a notice of proposed rulemaking (NPRM) on October 7, 2016, proposing to add the new protocols and inviting public comments.

The three new protocols submitted by TSI in July 2014 included one for full-facepiece elastomeric respirators (the Fast-Full method), one for half-mask elastomeric respirators (the Fast-Half method), and one for filtering facepiece respirators (FFRs) (the Fast-FFR method). The authors of the Richardson

[1] Richardson, A.W. et al. (2014a), ''Evaluation of a Faster Fit Testing Method for Elastomeric Half-Mask Respirators Based on the TSI PortaCount,'' Journal of the International Society for Respiratory Protection 31(1): 9–22 (OSHA–2015–0015–0004); Richardson, A.W. et al. (2013), ''Evaluation of a Faster Fit Testing Method for Full-Facepiece Respirators Based on the TSI PortaCount,'' Journal of the International Society for Respiratory Protection 30(2): 116–128 (OSHA–2015–0015–0005); Richardson, A.W. et al. (2014b), ''Evaluation of a Faster Fit Testing Method for Filtering Facepiece Respirators Based on the TSI PortaCount,'' Journal of the International Society for Respiratory Protection 31(1): 43–56 (OSHA–2015–0015–0006).

studies evaluated each of the three types of respirators for method performance separately, but the protocols for the Fast-Full and Fast-Half methods were identical. As such, and to prevent duplicative regulatory text, OSHA proposed to consolidate the Fast-Full and Fast-Half methods into a single protocol for approval: The modified ambient aerosol condensation nuclei counter (CNC) quantitative fit testing protocol for full-facepiece and half-mask elastomeric respirators. OSHA further proposed to approve the Fast-FFR protocol as the modified ambient aerosol condensation nuclei counter (CNC) quantitative fit testing protocol for filtering facepiece respirators. No commenters objected to the consolidation and naming of the protocols during the public comment period.

The original ambient aerosol CNC protocol consists of eight test exercises, performed in the following order: Normal breathing, deep breathing, turning head side-to-side, moving head up-and-down, talking, grimace, bending over, and normal breathing again. The modified ambient aerosol CNC protocol for full-facepiece and half-mask elastomeric respirators differs as follows: (1) It includes only three of the eight original test exercises (bending over, head side-to-side, and head up-and-down); (2) it adds jogging-in-place as a new exercise; and (3) it reduces the total test duration from 7.2 to 2.5 minutes. The modified ambient aerosol CNC protocol for FFRs differs from the original ambient aerosol CNC protocol as follows: (1) It includes only four of the eight original test exercises (bending over, talking, head side-to-side, and head up-and-down) and (2) it reduces the total test duration from 7.2 to 2.5 minutes.

The three Richardson studies (OSHA–2015–0015–0004, OSHA–2015–0015–0005, OSHA–2015–0015–0006) compared the fit factors for the new protocols to a reference method based on the approach specified in the ANSI annex.[2] This approach requires the performance evaluation study to administer sequential paired tests using the proposed fit testing method and reference method during the same respirator donning. The reference method consisted of the standard OSHA exercises listed in Section I.A.14 of appendix A of the Respiratory Protection Standard (which are also the eight test exercises used for the original ambient aerosol CNC protocol), minus the grimace exercise, in the same order as described in the standard (*i.e.,* normal breathing, deep breathing, head side-to-side, head up-and-down, talking, bending over, normal breathing). Each exercise was performed for 60 seconds.

These protocols will serve as alternatives to the four existing quantitative fit testing protocols already listed in appendix A of the Respiratory Protection Standard and will maintain safety and health protections for workers while providing additional flexibility and reducing compliance burdens. This rule is a deregulatory action under Executive Order 13771 (82 FR 9339 (January 30, 2017)). It has annualized net cost savings estimated at $4.1 million. A detailed discussion of OSHA's estimates of the rule's benefits, costs, and cost savings is included in the Final Economic Analysis and Regulatory Flexibility Certification section.

B. Articles Supporting New Fit Testing Protocols

TSI supported its application for adding the new protocols with the three Richardson studies that indicate respectively that the proposed Fast-Half, Fast-Full, and Fast-FFR methods can identify poorly fitting respirators as well as the reference method used. Each article described a study that compared fit test results using a reference method specified in the ANSI annex with results using one of the proposed methods. The following subsections detail the methodologies and findings of the three Richardson studies.

1. Evaluation of the Fast-Half Method

a. Study Methods

The first Richardson study evaluated the Fast-Half method.[3] The study authors selected three models of NIOSH-approved, half-mask air-purifying respirators—each available in three sizes—from ''leading U.S. mask manufacturers'' equipped with P100 filters.[4] Respirators were probed with a flush sampling probe located between the nose and mouth. The study included 9 female and 16 male participants.

Each test subject donned a respirator for a five-minute comfort assessment and then performed two sets of fit test exercises, one using the reference method and another the Fast-Half method. The study authors randomized the order of the two sets of fit test exercises for each test subject. The reference method consisted of the eight standard OSHA exercises listed in Section I.A.14 of appendix A of the Respiratory Protection Standard, minus the grimace exercise, in the same order as required in the standard (*i.e.,* normal breathing, deep breathing, head side-to-side, head up-and-down, talking, bending over, normal breathing). The study subject performed each exercise for 60 seconds.

The study authors explained that they decided to exclude the grimace exercise because it ''is intended to break the respirator seal to the face'' which ''potentially results in a shift of the respirator'' (OSHA–2015–0015–0004). TSI submitted an additional explanation as to why the grimace exercise was excluded in all three Richardson studies (OSHA–2015–0015–0008). According to TSI, ''[l]ittle or no support was found for the grimace exercise among respirator fit test experts,'' and ''[t]he most common fault expressed by a number of experienced fit testers and industry experts was that the grimace cannot be consistently applied or even defined'' (*Id.*). TSI further explained that the grimace exercise is intended to break the face seal, which may not reseal in the same way for subsequent exercises. As a result, the shift in the respirator caused by grimacing can potentially confound comparisons between the fit test methods. TSI finally noted that the fit factor from the grimace exercise (if measured) is not used to calculate the overall fit factor result under the original ambient aerosol CNC method.

The Fast-Half method included four exercises: Bending, jogging-in-place, head side-to-side, and head up-and-down. Each test subject took two breaths at each extreme of the head side-to-side and head up-and-down exercises and at the bottom of the bend in the bending exercise.

Although not discussed in the Richardson study, TSI explained its rationale for selecting the exercises that were later utilized in the three Richardson studies. The exercises were identified, by TSI, as being the most rigorous for (*i.e.,* the best at) identifying poor fitting respirators in two white papers TSI prepared and submitted to OSHA (OSHA–2015–0015–0001, OSHA–2015–0015–0008). TSI reached its conclusions and selected the exercises based on a literature review, informal conversations with industry fit test experts, and in-house pilot studies.

[2] A fit factor is a quantitative estimate of the fit of a particular respirator to a specific individual, and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

[3] Richardson, A.W. et al. (2014a), ''Evaluation of a Faster Fit Testing Method for Elastomeric Half-Mask Respirators Based on the TSI PortaCount,'' Journal of the International Society for Respiratory Protection 31(1): 9–22 (OSHA–2015–0015–0004).

[4] The authors chose not to identify the specific respirator models ''because the intentional mis-sizing and lack of performing a user seal check would misrepresent performance of these respirators when used as part of a proper respiratory protection program'' (OSHA–2015–0015–0004).

''Talking out loud,'' ''bending,'' and ''moving head up/down'' were determined to be the three most critical exercises in determining the overall fit factor for abbreviated respirator fit test methods by Zhuang et al. (OSHA–2015–0015–0011).[5] TSI's in-house pilot fit testing studies supported the conclusions made by Zhuang et al., however, additional analysis of the TSI data by TSI uncovered an unexpected trend within the data for the talking exercise (OSHA–2015–0015–0001, OSHA–2015–0015–0008). TSI collected fit test data on subjects using consecutive sets of the seven-exercise reference method described above. TSI analyzed the frequency with which each exercise produced the lowest fit factor. Fit test data were separated into three groups: All fit tests, good-fitting fit tests, and poor-fitting fit tests. A poor-fitting fit test was defined as any test where at least one exercise failed, and a good-fitting fit test was defined as one where no exercises failed.[6] TSI's results showed that normal breathing, deep breathing, and talking rarely produced the lowest fit factor (frequency ≤3 percent) for poor-fitting full-facepiece respirators. On this basis, these three less rigorous exercises were eliminated by TSI for both the Fast-Full and Fast-Half methods. The bending exercise was the most rigorous exercise for poor-fitting full-facepiece and half-mask elastomeric respirators. Talking was the exercise among the seven exercises that most often had the lowest fit factor for good-fitting full-facepiece and half-mask respirators in the TSI pilot study. None of the other exercises stood out for half-mask respirators, but TSI reasoned that there was a lack of data suggesting that half-mask respirator fit tests should use different exercises than full-facepiece respirators (OSHA–2015–0015–0008). TSI added jogging-in-place for a fourth rigorous test exercise as part of the protocol that the Richardson authors would evaluate, reasoning that jogging ''leverages the weight of the facepiece, much like bending, but on a different axis, and also because both OSHA and ANSI currently include jogging as an alternative exercise'' (OSHA–2015–0015–0008). Jogging-in-place is an alternate (*i.e.,* elective as opposed to required) exercise in the ANSI annex. The study authors stated that jogging is ''aggressive in terms of evaluating the respirator seal'' (OSHA–2015–0015–0004).

The study authors conducted the experiments in a large chamber and added sodium chloride (NaCl) aerosol to augment particle concentrations, which they expected to range between 5,000 and 20,000 particles/cm^3 (target = 10,000 p/cm^3). The study authors used a single CPC instrument, the PortaCount® Model 8030 (TSI Incorporated, Shoreview MN), for sampling and valuation. They connected the instrument to two equal-length sampling tubes. The first tube sampled particle concentrations inside the facepiece, and the second tube sampled the ambient particle concentration. The authors used TSI software to switch between sampling lines and to record concentration data.

During the reference method, for each exercise, the ambient sampling tube was first purged for four seconds before an ambient sample was taken for 5 seconds, followed by an 11-second purge of the in-facepiece sampling tube and a 40-second in-facepiece sample. The reference method took a total of 429 seconds (7 minutes 9 seconds) to complete.

For the reference method, the authors calculated a fit factor for each exercise by dividing the mean ambient concentration for that exercise by the in-facepiece concentration taken during each exercise (average of the five-second ambient measurements before and after the exercise). The harmonic mean of the seven exercise fit factors equaled the overall fit factor. During the first exercise of the Fast-Half method (bending over), the ambient sampling tube was first purged for 4 seconds before an ambient sample was taken for five seconds; the in-facepiece sampling tube was then purged for 11 seconds and a sample was then taken from inside the mask for 30 seconds. No ambient sample was taken during the next two exercises (jogging and head side-to-side)—just one 30-second in-facepiece sample was collected for each exercise. For the last exercise (head up-and-down), a 30-second in-facepiece sample was taken, after which a 4-second ambient purge and 5-second ambient sample were conducted. The Fast-Half method took a total of 149 seconds (2 minutes 29 seconds) to complete.

For the Fast-Half method, the ambient concentration was calculated by taking the mean of two measurements—one before the first exercise and one after the last exercise. The authors calculated fit factors for each exercise by dividing the in-facepiece concentration taken during that exercise by the mean ambient concentration. As with the reference method, the harmonic mean of the four exercise fit factors represented the overall fit factor. A minimum fit factor of 100 is required in order to be regarded as an acceptable fit for half-mask respirators under appendix A of the Respiratory Protection Standard.

To ensure that respirator fit was not significantly altered between the two sets of exercises, a 5-second normal breathing fit factor assessment was included before the first exercise set, between the two sets of exercises and at the completion of the second exercise set. If the ratio of the maximum to minimum of these three fit factors was greater than 100, this experimental trial was excluded from data analysis.

b. Richardson Study Results

The ANSI annex specifies that an exclusion zone within one coefficient of variation for the reference method must be determined. The exclusion zone is the range of measured fit factors around the pass/fail fit factor of 100 that cannot be confirmed to be greater than 100 or less than 100 with adequate confidence and, therefore, should not be included in evaluating performance. The study authors determined the variability associated with the reference method using 48 pairs of fit factors from 16 participants. They defined the exclusion zone as fit factor measurements within one standard deviation of the 100 pass/fail value. Six pairs of fit factors were omitted by the study authors because the normal breathing fit factor ratio exceeded 100 and 5 pairs of fit factors were omitted because they were identified as outliers (> 3 standard deviations from the mean of the remaining data points). The exclusion zone calculated by the study authors ranged from 82 to 123 and did not include the five outliers. During review of the study methods, OSHA felt that omitting outliers to define a variability-based exclusion zone deviated from the usual scientific practice. Therefore, OSHA recalculated the exclusion zone with the outlier data included in the analysis (OSHA–2015–0015–0009). The recalculated exclusion zone was somewhat wider, ranging from 68 to 146.

The final dataset for the ANSI Fast-Half performance evaluation included 134 pairs of fit factors from 25 participants. The respirator models and sizes were used in nearly equal proportion. The study authors omitted eleven pairs of fit factors because the ratio of maximum to minimum normal breathing fit factors was greater than 100. They also omitted one pair due to a methodological error (sample line

[5] Zhuang et al. (2004) considered those exercises that had the lowest fit factors as the most critical in determining the overall fit factor.

[6] Pass/fail levels were 500 for full-facepiece respirators and 100 for half-mask elastomeric respirators and FFRs.

detached from respirator during test). As such, 122 pairs were included in the data analysis.

The study authors concluded that their statistical analysis indicates that the Fast-Half method met the required acceptance criteria for test sensitivity, predictive value of a pass, predictive value of a fail, test specificity, and kappa statistic [7] as defined in the ANSI annex (see Table 1). The same was indicated by OSHA's statistical analysis, utilizing the wider OSHA-recalculated exclusion zone, which excluded an additional three pairs for a total of nine pairs excluded and 119 pairs included in the analysis. OSHA therefore agrees with the study authors that the Fast-Half method can identify poorly fitting respirators at least as well as the reference method.

2. Evaluation of Fast-Full Method

a. Study Methods

The second Richardson study evaluated the Fast-Half method.[8] The study authors selected three models of NIOSH-approved, full-facepiece air-purifying respirators from ''leading U.S. mask manufacturers'' equipped with P100 filters. Each model was available in three sizes. Respirators were probed with a non-flush sampling probe inside the nose cup, extending 0.6 cm into the breathing zone. The study included 11 female and 16 male participants. The reference method, choice of exercises, PortaCount® instrument, test aerosol, and sampling sequence were identical to those used for the Fast-Half method. Appendix A of the Respiratory Protection Standard requires a minimum fit factor of 500 for full-facepiece respirators.

b. Richardson Study Results

The study authors determined the variability associated with the reference method using 54 pairs of fit factors from 17 participants. The exclusion zone was defined as fit factor measurements within one standard deviation of the 500 pass/fail value. Five pairs of fit factors were omitted because the normal breathing fit factor ratio exceeded 100, and three pairs of fit factors were omitted because they were identified as outliers (≤ 3 standard deviations from the mean of the remaining data points). The exclusion zone calculated by the study authors ranged from 345 to 726 and did not include the three outliers. OSHA recalculated the exclusion zone with the outlier data included in the analysis (OSHA–2015–0015–0009). The recalculated exclusion zone determined by OSHA was somewhat wider ranging from 321 to 780.

The final dataset for the ANSI Fast-Full performance evaluation included 148 pairs of fit factors from 27 participants. The respirator models and sizes were used in nearly equal proportion. Eleven pairs were omitted because the ratio of maximum to minimum normal breathing fit factors was greater than 100; one pair was omitted due to an observational anomaly (a torn piece of a cleaning wipe was observed in the respirator during the test); 136 pairs were included in the data analysis.

The study authors concluded that their statistical analysis indicates that the Fast-Full method met the required acceptance criteria for test sensitivity, predictive value of a pass, predictive value of a fail, test specificity, and kappa statistic as defined in the ANSI annex (see Table 1). The same was indicated by OSHA's statistical analysis, utilizing the wider OSHA-recalculated exclusion zone, which excluded an additional three pairs for a total of 15 pairs excluded and 133 pairs included in the analysis. OSHA therefore agrees with the study authors that the Fast-Full method can identify poorly fitting respirators at least as well as the reference method.

3. Evaluation of Fast-FFR (Filtering Facepiece Respirator) Method

a. Study Methods

The third Richardson article evaluated the Fast-FFR method.[9] Ten models of NIOSH-approved N95 FFRs from six ''leading U.S. mask manufacturers'' were selected for study.[10] The different models were selected to represent a range of styles: six cup-shaped, two horizontal flat-fold, and two vertical flat-fold models. No information was provided in the publication about whether models were available in different sizes. However, at OSHA's request, TSI submitted the following additional information regarding the choice of respirators (OSHA–2015–0015–0010):

> The study plan for FFR called for 10 N95 FFR. Unlike elastomeric respirators, FFR designs vary widely and are typically not offered in different sizes. The authors felt it was important to use a variety of designs that represent the styles currently available in the US. Of the 10 models used, 6 were cup-shaped, 2 were vertical-fold, and 2 were horizontal-fold designs. The cup-shaped style is by far the most common, which is why 6 of the 10 model selected have that fundamental design. Four flat-fold designs (2 vertical-fold and 2 horizontal-fold) models are also included.

Respirators were probed with a flush sampling probe located between the nose and mouth. Lightweight sample tubing and neck straps were used to ensure the tubing did not interfere with respirator fit. Twenty-nine participants (11 female; 18 male) were included in the study. The reference method, test aerosol, and most other study procedures were analogous to those used for the Fast-Half and Fast-Full methods. However, the Fast-FFR method employed these four exercises: Bending, talking, head side-to-side, and head up-and-down with the same sampling sequence and durations as the other test protocols. The talking exercise replaces the jogging exercise used in the Fast-Half and Fast-Full methods. TSI decided not to eliminate the talking exercise for FFRs even though their pilot study indicated that it rarely produces the lowest fit factor (OSHA–2015–0015–0008). They felt from their own experience that jogging does not represent the kind of motions that FFR wearers do when using the respirator (OSHA–2015–0015–0008). TSI also indicated that the sampling probe configured on lightweight FFR respirators caused the respirator to pull down and away from the face during jogging creating unintentional leakage. A PortaCount® Model 8038 operated in the N95 mode (TSI Inc., Shoreview MN) was used to measure aerosol concentrations throughout the experiments. The particle concentrations in the test chamber were expected to be greater than 400 p/cm^3. A minimum fit factor of 100 is required in order to be regarded as an acceptable fit for these types of respirators under appendix A of the Respiratory Protection Standard.

b. Richardson Study Results

The study administered sequential paired fit tests using the Fast-FFR

[7] The kappa statistic is a measure of agreement between the proposed and reference fit test methods. It compares the observed proportion of fit tests that are concordant with the proportion expected if the two tests were statistically independent. Kappa values can vary from −1 to +1. Values close to +1 indicate good agreement. ANSI/AIHA recommends kappa values >0.70.

[8] Richardson, A.W. et al. (2013), ''Evaluation of a Faster Fit Testing Method for Full-Facepiece Respirators Based on the TSI PortaCount,'' Journal of the International Society for Respiratory Protection 30(2): 116–128 (OSHA–2015–0015–0005).

[9] Richardson, A.W. et al. (2014b), ''Evaluation of a Faster Fit Testing Method for Filtering Facepiece Respirators Based on the TSI PortaCount,'' Journal of the International Society for Respiratory Protection 31(1): 43–56 (OSHA–2015–0015–0006).

[10] The authors chose not to identify the specific respirator models ''because the intentional mis-sizing and lack of performing a user seal check would misrepresent performance of these respirators when used as part of a proper respiratory protection program'' (OSHA–2015–0015–0006).

method and a reference method according to the ANSI annex. The study authors randomized the order of the two sets of fit test exercises for each test subject. The study authors determined the variability associated with the reference method using 63 pairs of fit factors from 14 participants. They defined the exclusion zone as fit factor measurements within one standard deviation of the 100 pass/fail value. Two pairs of fit factors were omitted by the study authors because the normal breathing fit factor ratio exceeded 100, and six pairs of fit factors were omitted because they were identified as outliers (>3 standard deviations from the mean of the remaining data points). The exclusion zone calculated by the study authors ranged from 78 to 128 and did not include the six outliers. OSHA recalculated the exclusion zone with the outlier data included in the analysis (OSHA–2015–0015–0009). The recalculated exclusion zone was somewhat wider, ranging from 69 to 144.

The final dataset for the ANSI Fast-FFR performance evaluation included 114 pairs of fit factors from 29 participants. The respirator models were used in nearly equal proportion. The authors omitted two pairs because the ratio of maximum to minimum normal breathing fit factors was greater than 100, leaving 112 pairs for the data analysis.

The study authors concluded that their statistical analysis indicates that the Fast-FFR method met the required acceptance criteria for test sensitivity, predictive value of a pass, predictive value of a fail, test specificity, and kappa statistic as defined in the ANSI annex (see Table 1). The same was found by OSHA's statistical analysis, utilizing the wider OSHA-recalculated exclusion zone, which excluded an additional four pairs for a total of 11 pairs excluded and a 102 pairs included in the analysis. OSHA therefore agrees with the study that the Fast-FFR method can identify poorly fitting respirators at least as well as the reference method.

TABLE 1—COMPARISON OF FIT TEST PROTOCOLS WITH ANSI CRITERIA

	ANSI Z88.10	Fast-full	Fast-half	Fast-FFR
Sensitivity	≥0.959	0.98	0.96	1.00
PV Pass	≥0.95	0.98	0.97	1.00
Specificity	≥0.50	0.98	0.97	0.85
PV Fail	≥0.50	0.98	0.93	0.93
Kappa	≥0.70	0.97	[1] 0.89	[1] 0.89

[1] The kappa values in the table are those determined using the OSHA recalculated exclusion zone. The kappa values reported by the study authors using a narrower exclusion zone were 0.90 and 0.87, respectively, for the Fast-Half and Fast-FFR methods.
Other statistical values were the same for both OSHA and study author exclusion zone determinations.

C. Consensus Standards

While appendix A of OSHA's Respiratory Protection Standard specifies the procedure for adding new fit testing protocols to the standard, it does not specify any particular method(s) or criteria for evaluating a new fit test. Section 6(a) of the Act directs the Secretary of Labor to promulgate by rule ''as an occupational safety or health standard any national consensus standard . . . unless he determines that the promulgation of such a standard would not result in improved safety or health for specifically designated employees.'' 29 U.S.C. 655(a). Section 6(b)(8) of the Act further states: ''Whenever a rule promulgated by the Secretary differs substantially from an existing national consensus standard, the Secretary shall, at the same time, publish in the **Federal Register** a statement of the reasons why the rule as adopted will better effectuate the purposes of this Act than the national consensus standard.'' 29 U.S.C. 655(b)(8). And OSHA has a long history of considering national safety and health consensus standards, such as ANSI and NFPA (National Fire Protection Association), in developing its own standards.

The National Technology Transfer and Advancement Act of 1995 similarly endorses agencies' use of national consensus standards: ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'' Public Law 104–113, section 12(d), 110 Stat. 775, 783 (1996), 15 U.S.C. 272 note. ANSI/AIHA is such a voluntary consensus standards body, whose standards, including Z88.10, are widely recognized and accepted by the industrial hygiene community. OSHA concurs with ANSI that ''this annex [A2] provides a specific procedure for evaluating fit test methods against the current body of knowledge.'' OSHA therefore considers the annex's procedure to be a valid, acceptable method for evaluating new fit test protocols (ANSI/AIHA, 2010).

D. Comments to the Proposal

In the October 2016 NPRM, OSHA preliminarily determined that the new protocols met the sensitivity, specificity, predictive value, and other criteria outlined in the ANSI annex and would, therefore, provide employees with at least as much protection as the reference method. That reference method consisted of the standard OSHA exercises listed in Section I.A.14 of appendix A of the Respiratory Protection Standard (which are the eight test exercises used for the original ambient aerosol CNC protocol), minus the grimace exercise, in the same order as described in the standard (*i.e.,* normal breathing, deep breathing, head side-to-side, head up-and-down, talking, bending over, normal breathing). OSHA further concluded that it was reasonable to remove the grimace exercise from the reference method during the method comparison testing, because its inclusion would unpredictably impact respirator fit (see Question #10 below for a more detailed discussion). After having considered the comments submitted in response to the NPRM (discussed below), OSHA has concluded that it is appropriate to amend appendix A of the Respiratory Protection standard to include the proposed fit test protocols.

In the NPRM, OSHA invited public comment on the accuracy and reliability of the proposed protocols, their effectiveness in detecting respirator leakage, and their usefulness in selecting respirators that will protect employees from airborne contaminants in the workplace. OSHA invited public comment on the following specific questions:

1. Were the three studies described in the peer-reviewed journal articles well controlled and conducted according to

accepted experimental design practices and principles?

2. Were the results of the three studies described in the peer-reviewed journal articles properly, fully, and fairly presented and interpreted?

3. Did the three studies treat outliers appropriately in determination of the exclusion zone?

4. Will the two proposed protocols generate reproducible fit testing results?

5. Will the two proposed protocols reliably identify respirators with unacceptable fit as effectively as the quantitative fit testing protocols, including the OSHA-approved standard PortaCount® protocol, already listed in appendix A of the Respiratory Protection Standard?

6. Did the protocols in the three studies meet the sensitivity, specificity, predictive value, and other criteria contained in the ANSI/AIHA Z88.10–2010, Annex A2, Criteria for Evaluating Fit Test Methods?

7. Are the specific respirators selected in the three studies described in the peer-reviewed journal articles representative of the respirators used in the United States?

8. Does the elimination of certain fit test exercises (*e.g.,* normal breathing, deep breathing, talking) required by the existing OSHA-approved standard PortaCount® protocol impact the acceptability of the proposed protocols?

9. Is the test exercise, jogging-in-place, that has been added to the Fast-Full and Fast-Half protocols appropriately selected and adequately explained? Should the jogging exercise also be employed for the Fast-FFR protocol? Is the reasoning for not replacing the talking exercise with the more rigorous jogging exercise in the Fast-FFR protocol (as was done in Fast-Full and Fast-Half) adequately explained?

10. Was it acceptable to omit the grimace from the reference method employed in the studies evaluating performance of the proposed fit testing protocols? Is it appropriate to exclude the grimace completely from the proposed protocols, given that it is not used in the calculation of the fit factor result specified under the existing or proposed test methods? If not, what other criteria could be used to assess its inclusion or exclusion?

11. The protocols in the three studies specify that participants take two deep breaths at the extreme of the head side-to-side and head up-and-down exercises and at the bottom of the bend in the bend-forward exercise. According to the developers of these protocols, the deep breaths are included to make the exercises more rigorous and reproducible from one subject to the next. Are these additional breathing instructions adequately explained in the studies and in the proposed amendment to the standard? Are they reasonable and appropriate?

12. Does OSHA's proposed regulatory text for the two new protocols offer clear instructions for implementing the protocols accurately?

OSHA received 27 comments from 25 separate individuals, with one individual submitting three separate comments (OSHA–2015–0015–0015 to OSHA–2015–0015–0042). In addition, TSI submitted a comment several months after the close of the comment period (OSHA–2015–0015–0047). OSHA added TSI's comment to the docket as a late submission in the interest of full disclosure but did not take it into account.

Of the 27 timely comments, six did not specifically address any of OSHA's specific questions, but were generally in favor of the proposed protocols (OSHA–2015–0015–0016, OSHA–2015–0015–0018, OSHA–2015–0015–0019, OSHA–2015–0015–0020, OSHA–2015–0015–0030, OSHA–2015–0015–0039). Among other things, these comments agreed that the abbreviated protocols would save time and resources and would increase employer compliance with safety and health regulations.

OSHA addresses below the comments that addressed the NPRM's specific questions:

1. Were the three studies described in the peer-reviewed journal articles well controlled and conducted according to accepted experimental design practices and principles?

The majority of concerned comments about the proposed protocols related to the experimental design and methods used in the three Richardson studies supporting the proposed protocols. The most common of these criticisms was that the testing was not representative of ''real world'' settings (OSHA–2015–0015–0022, OSHA–2015–0015–0025, OSHA–2015–0015–0026, OSHA–2015–0015–0027, OSHA–2015–0015–0032, OSHA–2015–0015–0033, OSHA–2015–0015–0040, OSHA–2015–0015–0041, OSHA–2015–0015–0042). For example, one commenter asserted that the environment of the test chambers used in the three Richardson studies was ''too controlled'' and that the studies ''did not allow for variables encountered by fit test providers when conducting fit testing in real world settings'' (OSHA–2015–0015–0026). Another commenter stated: ''In an uncontrolled environment many factors, including but not limited to, ventilation, doors being opened, and room temperature can greatly affect the particle count in a relatively short time'' (OSHA–2015–0015–0040).

Regarding these comments, OSHA would like to stress that the proposed protocols were evaluated using the criteria outlined in Annex A2 of the ANSI/AIHA Z88.10–2010 standard, which does not require uncontrolled testing conditions with variables such as fluctuating climate, temperature, elevation, air currents, ventilation, etc. OSHA considers the ANSI annex method to be a valid method for evaluating new fit test protocols.

Many of these comments related specifically to the use of generated aerosols in the three Richardson studies (OSHA–2015–0015–0022, OSHA–2015–0015–0026, OSHA–2015–0015–0033, OSHA–2015–0015–0041). For example, one commenter stated:

> The PortaCount® was designed and marketed to be used for conducting quantitative fit tests using room aerosols, whereas the supporting studies were conducted in a test chamber using a generated aerosol. Concentrations of room aerosols are typically about $1x10^3$ p/cc, whereas in these studies the average challenge concentrations were about $2x10^4$ p/cc. . . . I would recommend that the protocols not be accepted until these validation tests are conducted using ambient aerosols. . . . (OSHA–2015–0015–0033).

Another commenter questioned why the study authors used generated aerosol in a test chamber when their goal was to prove the acceptability of a new ambient aerosol test protocol (OSHA–2015–0015–0041).

None of the three Richardson studies, however, employed a ''generated aerosol'' atmosphere as described in the ANSI/AIHA Z88.10 standard; instead, they used ''the ambient laboratory aerosol which was augmented by NaCl particles from a TSI Model 8026 Particle Generator'' (OSHA–2015–0015–0004, OSHA–2015–0015–0005, OSHA–2015–0015–0006). This approach is allowed by ANSI/AIHA in Annex A2, which states that ''a proposed modification to an accepted QNFT [quantitative fit testing] protocol can be evaluated using the accepted protocol for that instrument as the reference standard.'' As some commenters noted (OSHA–2015–0015–0031, OSHA–2015–0015–0041), it is often necessary to augment the ambient environment when using the original OSHA-approved ambient aerosol CNC fit test method in a relatively clean office environment. The TSI particle generator is one of several approaches commonly used (OSHA–2015–0015–0051, OSHA–2015–0015–0050). In fact, as noted by one commenter, technicians sometimes burn candles or incense in order to reach and

maintain ambient particle counts (OSHA–2015–0015–0032). OSHA has concluded that there is no material difference between the experimental atmosphere employed in the three Richardson studies and the atmosphere commonly used for quantitative fit testing with the ambient aerosol CNC method.

Other commenters expressed concerns that the ambient and purge times were too short (OSHA–2015–0015–0022, OSHA–2015–0015–0026, OSHA–2015–0015–0027, OSHA–2015–0015–0032, OSHA–2015–0015–0033, OSHA–2015–0015–0036, OSHA–2015–0015–0038, OSHA–2015–0015–0041, OSHA–2015–0015–0042). For example, one commenter recommended that the proposed protocols ''should provide for suitable ambient and respirator purge durations to address the full range of particle concentrations that the device is recommended for use in instead of selecting a duration based on the optimum conditions that were selected for the studies. . . .'' (OSHA–2015–0015–0026). Several commenters were also concerned that each ambient sample conducted at the beginning and end of the new protocols lasted only five seconds (OSHA–2015–0015–0032, OSHA–2015–0015–0036, OSHA–2015–0015–0042).

Regarding these comments, OSHA notes that for every exercise (except the grimace), the original OSHA-approved ambient aerosol CNC protocol involves a 4-second ambient purge, a 5-second ambient sample, and an 11-second mask purge, followed by a 40-second mask sample. A final 4-second ambient purge and 5-second ambient sample occur after the last 40-second exercise (normal breathing) mask sample. The proposed protocols employ the same 4-second ambient purge, 5-second ambient sample, and 11-second mask purge, followed by 4 consecutive 30-second mask samples during each of the 4 exercises, and a final 4-second ambient purge and 5-second ambient sample. The ambient purge and sample times are the same. The new protocols differ from the original OSHA-approved sampling protocol in these ways: The ambient environment is measured only at the beginning and end of the exercises and not between each exercise, mask purging occurs just once (after the first ambient sample), and mask sampling time is 30 seconds rather than 40 seconds. Additionally, requirements for conducting the fit test in an environment with an adequate particle concentration also did not change; they have been standard practice for the ambient aerosol CNC fit test method since its inception and approval by OSHA.

Regarding ambient measurements, the only difference between the new protocols and the original OSHA-approved protocol is that the new protocols take measurements at the beginning and end of the exercises, while the original protocol does so between each exercise. Because the total duration of the new protocols is much shorter than the original—2.5 minutes versus 7.2 minutes—OSHA has concluded that there is no need to take periodic samples between exercises. In particular, the time between the two ambient samples in the proposed protocol is 2 minutes 15 seconds, compared to 55 seconds between each ambient sample in the original protocol. This minor difference is unlikely to introduce any significant errors if fit testers follow standard practice: (1) Ensure the aerosol concentration falls between 1,000 and 30,000 particles/cm^3 (p/cm^3) for filters with a NIOSH designation of N/R/P–99 or 100, and 30 to 1,500 p/cm^3 for filters with a N/R/P–95 designation; and (2) do not augment the ambient environment if the concentration exceeds 8000 p/cm^3 or 800 p/cm^3 for the 99/100 or the 95 filters, respectively (OSHA–2015–0015–0049).

Two commenters expressed concern over eliminating purging between exercises altogether (OSHA–2015–0015–0022, OSHA–2015–0015–0038). But there is no reason for purging between the different exercises in the proposed protocol because the instrument continues to sample from the same environment (inside the facepiece) throughout the exercises. Particles measured during the first few seconds of transition from one exercise to the next will have almost no influence on the average concentration over a 30-second exercise sampling period.

Purging ensures that the sensing volume evaluates particles from the correct environment and is only necessary when switching between ambient and mask samples or vice versa. The proposed protocols do not switch between ambient and mask sampling during the exercises, so purging is not required.

Some commenters requested further review of the methodology of the three Richardson studies or further validation testing by a ''third party'' (OSHA–2015–0015–0029, OSHA–2015–0015–0040). OSHA notes that the studies were conducted by a third party, Battelle Memorial Institute, and the study methods were approved by Battelle's Institutional Review Board. In addition, NIOSH stated that their ''review determined that the three methods met the criteria contained in the ANSI/AIHA Z88.10–2010, Annex A2'' (OSHA–2015–0015–0031). And one commenter who had some concerns about the proposed protocols conceded that the ''referenced peer-reviewed articles in J. of Respiratory Protection appear to meet the mathematical and statistical criteria we expect'' (OSHA–2015–0015–0024). Finally, the publication of the three Richardson studies in a peer-reviewed industrial hygiene journal suggests they were well-controlled and conducted according to accepted experimental design practices and principles. In summary, OSHA determined that the public comments did not identify any significant shortcomings in the experimental design and methodology used in the three studies.

2. Were the results of the three studies described in the peer-reviewed journal articles properly, fully, and fairly presented and interpreted?

Although critical of the fact that the studies were conducted in a test chamber as opposed to a real world setting, one commenter stated ''that under the specific set of conditions that the tests were performed that they were presented well'' (OSHA–2015–0015–0026). But another commenter expressed that it was ''impossible to determine if the articles were properly, fully, and fairly presented and interpreted'' because the articles did not provide data tables listing ''respirator make, model, style, size, individuals tested, and the paired results of the new test and the reference test'' as outlined in the ANSI annex (OSHA–2015–0015–0038). The annex recommends—but does not require—such tables, and it is often difficult to publish a peer-reviewed article containing a complete dataset. Regardless, OSHA reviewed the full datasets provided by TSI as part of the review of the study protocols, and no commenters asked to see the datasets. In summary, OSHA finds that the public comments did not identify any significant shortcomings in the way that the results of the three journal articles were presented or interpreted.

3. Did the three studies treat outliers appropriately in determination of the exclusion zone?

While OSHA disagreed with the studies' omissions of outliers in calculating exclusion zones, OSHA recalculated exclusion zones with the outlier data included, and the results of the re-analysis did not change any of the studies' conclusions. In addition, NIOSH considered the study authors' identification of outliers to be ''a reasonable method for diagnosing/identifying outliers'' (OSHA–2015–

0015–0031). Finally, no commenters expressed concern about the treatment of outliers. OSHA concludes that the treatment of outliers in the studies did not undermine any of the studies' results or conclusions.

4. Will the two proposed protocols generate reproducible fit testing results?

Some commenters questioned the reproducibility of fit testing results using the two proposed protocols (OSHA–2015–0015–0022, OSHA–2015–0015–0042), but did not offer any compelling data or research suggesting their non-reproducibility. One of these commenters had concerns based on NIOSH's recommendation that OSHA (OSHA–2015–0015–0042) conduct additional research to gather evidence for a more informed decision. The commenter stated:

> With this recommendation OSHA should not accept a protocol that still needs further evidence to show it will produce reproducible fit testing results. There are too many respirators and employees in hazardous conditions to allow a protocol to move forward that isn't fully vetted and accurate (OSHA–2015–0015–0042).

OSHA believes this commenter took NIOSH's comment out of context. The NIOSH response to this question—in its entirety—is the following:

> The studies used the OSHA-accepted ambient aerosol condensation nuclei counter (CNC) quantitative fit testing protocol as the reference method. This method has been shown to produce reproducible fit testing results [Zhuang et al. 1998; Coffey et al. 2002]. Using the procedures and requirements of ANSI Z88.10–2010, the abbreviated methods provided results comparable to the reference method. Therefore, the proposed protocols are anticipated to generate reproducible results. NIOSH recommends that additional research be conducted to provide evidence for a more informed decision (OSHA–2015–0015–0031).

While additional research is always valuable, OSHA agrees with NIOSH that the proposed protocols are anticipated to generate reproducible results. The proposed protocols were evaluated based on the approach specified in the ANSI annex, which provides a specific procedure for evaluating fit test methods ''against the current body of knowledge'' and is considered a valid method by much of the industrial hygiene community. Having met the criteria of the ANSI annex, OSHA concludes that the proposed protocols will generate reproducible fit testing results.

5. Will the two proposed protocols reliably identify respirators with unacceptable fit as effectively as the quantitative fit testing protocols, including the OSHA-approved standard PortaCount® protocol, already listed in appendix A of the Respiratory Protection Standard?

Several commenters questioned not only the acceptability of the proposed protocols, but also the validity of the original ambient aerosol particle counting quantitative method already accepted by OSHA and listed in appendix A (OSHA–2015–0015–0022, OSHA–2015–0015–0026, OSHA–2015–0015–0027, OSHA–2015–0015–0029). Some of these commenters were also of the opinion that the CNP-based fit testing methods are superior to other quantitative fit testing methods. One commenter (OSHA–2015–0015–0042) stated that the following NIOSH ''statement raises major concerns to the ability & proven accuracy of this proposed protocol to identify respirators with unacceptable fit'':

> Evidence is not available in the literature to assess whether the two proposed protocols reliably identify respirators with unacceptable fit as effectively as the other accepted quantitative fit testing protocols (generated aerosol and controlled negative pressure (CNP)). It is recommended that further side-by-side studies be conducted to test the equivalency of the new PortaCount Fast-Fit methods in identifying poorly fitting respirators as effectively as the OSHA-accepted CNP testing; potentially, tests using other ''generated aerosols'' would be needed to determine whether the methods are equivalent (OSHA–2015–0015–0031).

Although NIOSH recommended future research, it nonetheless recommended that OSHA accept the proposed protocols. In its review of the three Richardson studies, NIOSH also determined that the proposed protocols conform to the requirements of the ANSI annex.

The validity of the original OSHA-approved ambient aerosol CNC fit testing protocol was never under question in this rulemaking. Appendix A of OSHA's Respiratory Protection Standard states that quantitative fit testing using ambient aerosol as the test agent and appropriate instrumentation (condensation nuclei counter) to quantify the respirator fit has ''been demonstrated to be acceptable.'' In addition, the members of the ANSI/AIHA Z88.10 ''Respirator Fit Testing Methods'' committee, who represent many of the nation's leading respiratory protection experts, opted to retain, rather than reject, this method as an acceptable quantitative fit testing method when they updated the national consensus standard in 2010. Furthermore, the proposed protocols were evaluated using the method described in the ANSI annex, which does not require a statistical comparison against the CNP method (OSHA–2015–0015–0007). Likewise, OSHA's Respiratory Protection Standard does not require that a new fit testing protocol be compared to the CNP method, or any other specific fit testing method. Moreover, just as OSHA does not rank specific makes and models of respirators, OSHA also does not rank fit testing methods. Each fit testing method has its own advantages and disadvantages.

In summary, OSHA determined that the new protocols met the sensitivity, specificity, predictive value, and other criteria outlined in the ANSI annex and will, therefore, provide employees with protections comparable to protections afforded to them by the reference method, which consisted of the standard OSHA exercises listed in Section I.A.14 of appendix A of the Respiratory Protection Standard, minus the grimace exercise, in the same order as described in the standard (*i.e.,* normal breathing, deep breathing, head side-to-side, head up-and-down, talking, bending over, normal breathing). These are the same test exercises, minus the grimace, that are utilized for both the CNC and CNP protocols. OSHA concluded that it was reasonable to remove the grimace exercise from the reference method during the method comparison testing, because its inclusion would unpredictably impact respirator fit within each pair of data comparing the current and new fit test protocols (see Question #10 below for a more detailed discussion).

6. Did the protocols in the three studies meet the sensitivity, specificity, predictive value, and other criteria contained in the ANSI/AIHA Z88.10–2010, Annex A2, Criteria for Evaluating Fit Test Methods?

One commenter stated that evaluating the sensitivity of the new protocols ''presents a quandary because the sensitivity of the standard PortaCount protocol has itself not been established'' (OSHA–2015–0015–0022). As discussed under question #5, the validity of the original OSHA-approved ambient aerosol CNC fit testing protocol is not at issue in this rulemaking.

OSHA's evaluation of the proposed protocols determined that they met the criteria outlined in the ANSI annex (see sections A–B above). In addition, NIOSH stated that their ''review determined that the three methods met the criteria contained in the ANSI/AIHA Z88.10–2010, Annex A2'' (OSHA–2015–0015–0031). Another commenter agreed that ''the submitted request has followed the defined procedures and the results fit within the statistical limits set forth in ANSI Z88.10–2010'' (OSHA–2015–0015–0035). Furthermore, OSHA

determined that the public comments did not provide any substantive data or information suggesting that the proposed protocols in the three studies did not meet the sensitivity, specificity, predictive value, and other criteria contained in the ANSI annex.

7. Are the specific respirators selected in the three studies described in the peer-reviewed journal articles representative of the respirators used in the United States?

One commenter questioned the ''very small sample of the wide range of tight sealing respirators that were used in the [studies]'' (OSHA–2015–0015–0029), and another expressed that ''the small sample size of respirators chosen for testing lends itself to being less than ideal'' (OSHA–2015–0015–0040). However, neither commenter provided specific recommendations or statistical data regarding the numbers and types of respirators that should have been selected or why. Further, the industrial hygiene research community does not require a specified sample size of respirators to assess fit testing protocols. Finally, had the respirator sample size been too small to produce reliable results, the studies likely would not have been accepted for publication in a peer-reviewed journal.

One commenter questioned why the Richardson studies included only filtering facepiece respirators without exhalation valves, noting that many users opt to wear filtering facepiece respirators with exhalation valves for comfort reasons (OSHA–2015–0015–0026). But an exhalation valve does not affect respirator fit. While the study authors did not explain how they selected the respirator models and designs, OSHA has determined that the public comments did not identify any significant shortcomings in respirator selection and believes that the models and designs selected for the three experiments were appropriately representative.

8. Does the elimination of certain fit test exercises (e.g., normal breathing, deep breathing, talking) required by the existing OSHA-approved standard PortaCount® protocol impact the acceptability of the proposed protocols?

Several commenters expressed concern over removing certain fit test exercises (OSHA–2015–0015–0021, OSHA–2015–0015–0024, OSHA–2015–0015–0025, OSHA–2015–0015–0029, OSHA–2015–0015–0032, OSHA–2015–0015–0033, OSHA–2015–0015–0038, OSHA–2015–0015–0041), but did not provide any peer-reviewed data or published research to support their opinions. Three commenters (OSHA–2015–0015–0021, OSHA–2015–0015–0025, OSHA–2015–0015–0032) expressed concern about removing the talking exercise, because they had experienced fit test failures during the talking exercise when fit testing workers. Another commenter felt that ''it doesn't make sense to eliminate [the talking] exercise simply because it wasn't the worst contributing exercise with poor fitting respirators'' (OSHA–2015–0015–0033). A third suggested retaining the head side-to-side, head up-and-down, and talking exercises because he believes they are currently the most rigorous exercises (OSHA–2015–0015–0024).

Another commenter suggested that ''the conclusion to eliminate Normal Breathing 2 (NB2) from the Fast Full Protocol is extremely subjective'' and questioned how ''NB2 [normal breathing #2] could be eliminated and UD [moving head up and down] kept if there is no correlation with the study data?'' (OSHA–2015–0015–0038). This commenter suggested increasing the purge time to improve the ability of the NB2 exercise to detect poor fits. Regarding this question, OSHA has concluded that TSI properly excluded the second normal breathing exercise. In TSI's study of the Fast-Full method, the second normal breathing exercise had the lowest fit factor 19% of the time for poor-fitting respirators. While this score normally indicates an exercise was effective at detecting poor-fitting respirators, TSI concluded that score was anomalous because the corresponding score for the first normal breathing (NB1) exercise was 0%. TSI reasoned the 19% score was a result of particles introduced into the facepiece during the preceding (bending over) exercise that were not purged (OSHA–2015–0015–0008). Increasing the purge time to clear such particles would not, as the commenter suggests, improve the ability of the NB2 exercise to detect poor fits. Instead, NB2 would likely be as ineffective as NB1, which was never the lowest fit factor for any poor-fitting respirators. This is also supported by the fact that the NB1 and NB2 exercises produced the lowest fit factors only 2% and 5% of the time, respectively, for good-fitting respirators.

One commenter noted that ''[e]limination of the normal breathing, deep breathing, and talking fit test exercises from the proposed Fast protocols has significant potential for adverse impact on PortaCount fit test results in the real world'' (OSHA–2015–0015–0022). With respect to normal breathing and talking, the commenter noted that several studies not mentioned by the three Richardson studies indicate that the first normal breathing exercise fit factor is typically lower than fit factors from all subsequent exercises and that the talking exercise also often results in a lower fit factor. But this commenter did not provide any basis to believe eliminating these exercises will put workers at risk. Indeed, he conceded that ''respirator donning has a greater effect on respirator fit than do fit test exercises'' and ''the lower fit factors produced by the talking exercise appear to be more consistent with sampling artifact than with actual exercise dynamics.'' And, as TSI explained, fit factors for the second normal breathing exercise are likely to be contaminated by prior exercises (OSHA–2015–0015–0008). Finally, this commenter offered no data or published information that suggest deep breathing is more rigorous than other exercises or that eliminating deep breathing will put workers at risk.

One commenter (OSHA–2015–0015–0029) stated that ''our experience strongly suggests that the Deep Breathing and Talking Exercises are frequently the exercises that see the lowest fit factors calculated and often are 'THE Exercises' which determine whether a respirator wear will achieve a Pass or Failure following the completion of the fit test series of exercises.'' He further suggested ''a more thorough evaluation of this change by a third party such as NIOSH–NPPTL. . . .'' Another commenter requested that a review of the studies be performed by an independent third party (OSHA–2015–0015–0040). NIOSH/NPPTL did in fact review and evaluate the studies. In the comments NIOSH submitted to OSHA, NIOSH did not express any concern over the removal of the talking exercise and ultimately ''recommend[ed] that OSHA accept the three protocols'' (OSHA–2015–0015–0031).

Regarding all these comments, the industrial hygiene community has not come to a consensus as to which test exercises must be used in a new fit testing protocol. Neither the ANSI annex nor OSHA's appendix requires any specific test exercise(s) be used in a new fit testing protocol. Further, in 2004, OSHA approved an abbreviated version of the CNP protocol, called the CNP REDON protocol, which excludes the deep breathing and talking exercises, and includes only the facing forward (same as normal breathing), bending over, and head shaking exercises. In sum, the information submitted in the public comments did not convince OSHA that the elimination of the deep breathing and talking exercises adversely impacted the acceptability of the proposed protocols,

which met the sensitivity, specificity, predictive value, and other criteria contained in the ANSI annex.

9. Is the test exercise, jogging-in-place, that has been added to the Fast-Full and Fast-Half protocols appropriately selected and adequately explained? Should the jogging exercise also be employed for the Fast-FFR protocol? Is the reasoning for not replacing the talking exercise with the more rigorous jogging exercise in the Fast-FFR protocol (as was done in Fast-Full and Fast-Half) adequately explained?

One commenter was of the opinion that ''[t]he jogging exercise, while rigorous, is not representative of real-life civilian activities'' (OSHA–2015–0015–0024). NIOSH stated that it would have liked to have seen references to support that the jogging-in-place exercise used in the protocols for elastomeric respirators was aggressive in evaluating the respirator seal. However, this did not prevent NIOSH from recommending that OSHA approve the proposed protocols (OSHA–2015–0015–0031). Furthermore, as stated above under question #8, the industrial hygiene community has not come to a consensus as to which test exercise(s) must be included in new fit testing protocols. More importantly, neither the ANSI annex nor OSHA's appendix requires that any specific test exercise(s) be used in a new fit testing protocol.

10. Was it acceptable to omit the grimace from the reference method employed in the studies evaluating performance of the proposed fit testing protocols? Is it appropriate to exclude the grimace completely from the proposed protocols, given that it is not used in the calculation of the fit factor result specified under the existing or proposed test methods? If not, what other criteria could be used to assess its inclusion or exclusion?

One commenter (OSHA–2015–0015–0026) stated that he ''seriously question[s] the choice of the study and protocol authors in removing the Grimace exercise.'' While he ''concur[s] with their statement that it cannot be consistently applied and with their statement that the fit factor if measured should not be used in calculation of the fit factor,'' his ''interpretation is that the importance of the grimace is not in the fit factor achieved during this step of the protocol but instead in the ability of the mask to re-seal after this exercise which goes to the respirator['s] proper fit.''

While NIOSH (OSHA–2015–0015–0031) ''recommends that the grimace test be included in the abbreviated protocols when used in the workplace since it is part of the currently accepted protocols,'' NIOSH agrees that the new ''protocols provide a valid reason for not including [the grimace] in the method comparison testing since it would add a non-controlled variable.'' Similarly, another commenter stated:

> The Grimace exercise is intended to break the face seal and then measure the recovery of the seal in the following exercises. By breaking the seal in the Grimace exercise during the reference protocol you have now altered the original fit of the mask and compromised the second fit test data. Therefore it makes logical sense that this exercise was eliminated from the test procedure for both the reference test and the proposed test. The fit of the mask as originally donned is consistent for both the reference test and the proposed protocol test (OSHA–2015–0015–0035).

OSHA agrees that it is reasonable to remove the grimace exercise from the reference method during the method comparison testing, because its inclusion would unpredictably impact respirator fit. Some respirator fit test protocols include the grimace exercise because it is believed that it will unseat the respirator facepiece; whether this occurs is assessed, however, only during the subsequent exercise—fit measured during the grimace exercise is not included in the calculation of overall fit. Because method comparison requires a range of fit factors (from poor- to well-fitting respirators), OSHA believes that excluding the short grimace exercise allows for a more consistent assessment of fit between the reference and new fit test protocols.

Finally, neither the ANSI annex nor the OSHA appendix specifies which exercises must be used in a new fit testing protocol. The 2010 ANSI Z88.10 standard specifically considers the grimace exercise to be elective for the particle-counting instrument quantitative fit test procedure that it describes (see Table I). And although OSHA requires the grimace exercise as part of the original ambient aerosol CNC protocol, OSHA approved an abbreviated CNP REDON protocol in 2004 that excluded the grimace exercise among four other exercises. As such, OSHA concludes that it is not necessary to add the grimace exercise to the proposed protocols.

11. The protocols in the three studies specify that participants take two deep breaths at the extreme of the head side-to-side and head up-and-down exercises and at the bottom of the bend in the bend-forward exercise. According to the developers of these protocols, the deep breaths are included to make the exercises more rigorous and reproducible from one subject to the next. Are these additional breathing instructions adequately explained in the studies and in the proposed amendment to the standard? Are they reasonable and appropriate?

OSHA received no comments regarding these questions, which suggests that the breathing instructions were adequately explained in both the studies and in the proposed amendment to the standard, and that stakeholders were not concerned about this issue.

12. Does OSHA's proposed regulatory text for the two new protocols offer clear instructions for implementing the protocols accurately?

Neither TSI nor any commenters expressed concern about the clarity of OSHA's proposed regulatory text instructions for implementing the protocols. In the absence of such comments, the only changes that OSHA has made to the proposed regulatory text include an expansion of the titles of Tables A–1 and A–2 to match the names of the new protocols exactly. OSHA did this solely for clarity, so employers correctly correlate these two new tables with the two new proposed protocols.

Several commenters expressed miscellaneous concerns that did not fall directly under any of OSHA's specific questions for public comment. OSHA addresses each in turn. One commenter was not in favor of any quantitative fit testing methods because, in his view, qualitative fit tests are more convincing to the respirator wearers themselves (OSHA–2015–0015–0017):

> [p]assing quantitative measurements may be literally orders of magnitude apart. If the machine says a 13 is passing, and a 400 is passing as well, how are the wearers of the respirators supposed to feel when they compare their numbers? (I have literally seen those numbers before entering a CBRN Defense Training Facility (CDTF) with live nerve and mustard agent; each individual was concerned that his/her mask was not as ''good'' as the other's, as they had no idea what the numbers meant.

As an initial matter, this rulemaking was not intended to compare qualitative fit tests to quantitative fit tests—employers are free to choose such tests as appropriate under appendix A of the Respiratory Protection Standard. The two new protocols will serve only as additional quantitative fit testing options to employers. That said, qualitative fit testing is not appropriate for certain respirators. In fact, the individuals described by the commenter could not have used qualitative fit testing because proper protection against CBRN (chemical, biological, radiological and nuclear) exposures

requires a full-facepiece, which must be fit tested using a quantitative method.[11]

Another commenter was concerned about shortening the protocols to less than an eight-minute period, because she thought that symptoms of claustrophobia/panic attacks might not manifest before eight minutes (OSHA–2015–0015–0021). However, the risk of claustrophobia/panic attacks is already addressed when the wearer is required, under § 1910.134(e)(1) of the Respiratory Protection Standard, to undergo a mandatory medical evaluation ''to determine the employee's ability to use a respirator, before the employee is fit tested or required to use the respirator in the workplace.'' And the mandatory medical questionnaire in Appendix C of the standard includes a question regarding claustrophobia. In addition, OSHA is unaware of this having been an issue for respirator wearers fit tested using the CNP REDON protocol, which also lasts less than eight minutes and was approved by OSHA in 2004.

Two commenters who favored shorter protocols expressed interest in making the new protocols available on all ambient aerosol CNC-based fit testing instruments, particularly the older PortaCount® (model 8020) machines (OSHA–2015–0015–0028, OSHA–2015–0015–0030). OSHA notes that the new protocols are not restricted to any particular testing instrument because OSHA only approves fit testing protocols, not specific fit testing machines.[12] OSHA has no authority to require specific fit testing machines or models for new protocols. Employers must contact the manufacturers of CNC fit testing machines to determine which models support the new protocols.

E. Conclusions

After reviewing the comments submitted to the record, OSHA finds that the two proposed modified ambient aerosol CNC quantitative fit testing protocols are supported by peer-reviewed studies that were conducted according to accepted experimental design practices and principles and that produced results that were properly, fully, and fairly presented and interpreted. In addition, based on the peer-reviewed studies and comments submitted to the record, OSHA finds that the two proposed protocols meet the sensitivity, specificity, predictive value, and other criteria contained in the ANSI annex. Moreover, the proposed protocols met the criteria of the ANSI annex, and in the absence of any compelling data or research in the record that would suggest that the proposed protocols would not generate reproducible fit testing results, OSHA concludes that the proposed protocols will generate reproducible fit testing results. In summary, OSHA concludes that the two proposed protocols are sufficiently accurate and reliable to approve and include in appendix A of its Respiratory Protection Standard.

F. N95-Companion™ Technology

The original TSI PortaCount® machine (model 8020) could only be used to fit test respirators equipped with ≥99% efficient filter media (*i.e.,* N–, R–, or P–99 and 100 NIOSH filter designations). In 1998, TSI introduced the N95-Companion™ Technology, which, when combined with the PortaCount® 8020 model, could be used to fit test respirators equipped with <99% efficient filter media (*e.g.,* N95 NIOSH filter designation). TSI no longer manufactures the 8020 model, which was replaced by a second generation of PortaCount® instruments (models 8030 and 8038). TSI introduced a third generation of PortaCount® instruments (models 8040 and 8048) in November 2017. Models 8030 and 8040 can only test the most efficient filters (*i.e.,* 99 and 100 NIOSH filter designations), while models 8038 and 8048, which include the N95 Companion™ Technology already built into the machine, can test any type of filter by selecting the appropriate operating mode. Because employers are sometimes confused by this distinction, OSHA considered using this rulemaking to propose additional language to Part I.C.3 of appendix A of the Respiratory Protection Standard to reflect this technological development. The additional language proposed by OSHA did not alter the fit testing protocol or impose any new requirements on employers; it was merely intended for clarification purposes.

One commenter expressed concern over the use of the brand name ''Portacount®'' within the regulatory text, stating that ''[t]his seems to exclude other potential CNC providers'' (OSHA–2015–0015–0024). Regarding this comment, the original OSHA-approved ambient aerosol CNC protocol is often commonly referred to as the PortaCount® protocol because of the name of the CNC machines manufactured by the company (*i.e.,* TSI) that proposed the original protocol. OSHA is aware of only one other manufacturer that produces CNC instrumentation that is sold in the U.S. at this time. This new CNC instrumentation was only recently introduced into the market, so OSHA estimates that the overwhelming majority of the CNC instruments used in the U.S. at this time are still TSI PortaCount® machines. As such, OSHA determined that it is in the best interests of worker health and safety to retain the PortaCount® name within the regulatory text, as it has appeared in appendix A since 1998. This language is not intended to be exclude other manufacturers. It is intended merely to reflect that TSI's machines are those typically used for this test at this point in time. OSHA does not approve any safety equipment or require employers to use specific brands of safety equipment. However, it does sometimes refer to company or brand names when it is in the interest of safety and health. For example, appendix A of the Respiratory Protection Standard also includes the brand name (*i.e.,* Bitrex®) for the substance (*i.e.,* denatonium benzoate solution aerosol) overwhelmingly used for one of the OSHA-approved qualitative fit testing protocols. In addition, appendix A refers to the name of the company (*i.e.,* Occupational Health Dynamics) that proposed the original CNP protocol and manufacturers CNP instrumentation.

OSHA has, however, decided not to add the clarifying information about the different types of PortaCount® machines, due to commenter concerns that the inclusion of such information could create the appearance of a product endorsement. Since OSHA approves fit testing protocols rather than machines, OSHA feels that employers can contact fit testing instrument manufacturers for product specificity and capabilities.

III. Procedural Determinations

A. Legal Considerations

OSHA's Respiratory Protection Standard is based on evidence that fit testing is necessary to ensure proper respirator fit for employees, which protects them against excessive exposure to airborne contaminants in the workplace. Employers covered by this revision already must comply with the fit testing requirements specified in paragraph (f) of OSHA's Respiratory Protection Standard at 29 CFR 1910.134.

OSHA has determined that the additional modified ambient aerosol CNC protocols provide employees with protection that is comparable to the protection afforded them by the existing fit testing provisions. The additional

[11] Qualitative fit tests are limited to negative pressure air-purifying respirators that must achieve a fit factor of 100 or less, *i.e.,* they may only be used to fit test half-mask, not full-facepiece, respirators. 29 CFR 1910.134(f)(6).

[12] TSI informed OSHA that the new protocols would not be available on the now-discontinued 8020 models (OSHA–2015–0010).

modified ambient aerosol CNC protocols do not replace existing fit testing protocols, but instead are alternatives to them. Therefore, OSHA finds that the final standard does not directly increase or decrease the protection afforded to employees, nor does it increase employers' compliance burden. The additional modified ambient aerosol CNC protocols reduce the total fit test duration, and therefore may reduce the compliance burden for employers that elect to use one of these protocols.

B. Final Economic Analysis and Regulatory Flexibility Certification

The rule is not economically significant under Executive Order 12866 (58 FR 51735) or a ''major rule'' under Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 804). The rule imposes no additional costs on any private- or public-sector entity and is not a significant or major rule under Executive Order 12866 or other relevant statutes or executive orders. This rulemaking increases employers' flexibility in choosing fit testing methods for employees, and the final rule does not require an employer to update or replace its current fit testing method(s) if the fit testing method(s) currently in use meets existing standards. Furthermore, because the rule offers additional options that employers would be expected to select only if those options did not impose any net cost burdens on them, the rule will not have a significant impact on a substantial number of small entities.

OSHA received several comments in response to the NPRM related to the time savings anticipated by the proposal. As discussed in the ''Summary and Explanation,'' a number of commenters noted that time savings of the proposed fit testing protocols would increase efficiency and be substantial when aggregated across a large number of employees (OSHA–2015–0015–0018, OSHA–2015–0015–0020). No comments indicated that the time savings estimates would be significantly different from those put forth in the Preliminary Economic Analysis (PEA).[13] As a result, OSHA has not changed its methodology for calculating the potential cost savings of implementing the new protocols.

The new quantitative fit testing (QNFT) protocols will provide employers additional options to fit test their employees for respirator use. While OSHA approves fit testing protocols rather than fit testing machines, OSHA understands that, currently, the market for fit testing machines using the original ambient aerosol CNC protocol is dominated by TSI's PortaCount® machines (Models 8020, 8030, 8038, 8040, 8048).[14] As such, OSHA's Final Economic Analysis (FEA) focuses specifically on TSI's PortaCount® machines. Employers already using the original ambient aerosol CNC protocol with a PortaCount® machine (with the exception of the now-discontinued 8020) may switch from the original ambient aerosol CNC protocol to the new protocols. OSHA estimates switching saves approximately 5 minutes per fit test, and grants the employer corresponding cost savings.

According to TSI, ''[e]xisting owners of the PortaCount® Respirator Fit Tester Pro Model 8030 and/or PortaCount® Pro+ Model 8038 will be able to utilize the new protocols without additional expense. It will be necessary for fit testers to obtain a firmware and FitPro software upgrade, which TSI will be providing as a free download. As an alternative to the free download, PortaCount® Models 8030 and 8038 returned for annual service will be upgraded without additional charge. Owners of the PortaCount® Plus Model 8020 with or without the N95-Companion™ Technology (both discontinued in 2008) will be limited to the current 8-exercise OSHA fit test protocol'' (OSHA–2015–0015–0010).[15] There are approximately 12,000 Model 8030 or 8038 units in the field.[16] Existing PortaCount® users may adopt the new protocols with minimal effort: The fit tester will be able to select the new protocol after taking an estimated less than five minutes to download TSI's firmware and software updates. The individual being fit tested is also likely to learn the new protocols with minimal time. In fact, information about the new protocols could be imparted during the annual training mandated by OSHA's respiratory protection rule (OSHA–2015–0015–0012). As a practical matter, the new protocols contain fewer exercises requiring mastery. And Part I.A.12 of appendix A of OSHA's Respiratory Protection Standard already requires the fit tester to describe the fit test to the respirator wearer, regardless of which fit test it is or how often it is used. Thus, there should be no additional burden to the employer or employee.

OSHA anticipates many employers who currently use the original ambient aerosol CNC protocol will adopt the new protocols because they could be adopted at negligible cost to the employer and would take less time to administer. OSHA expects that the new protocols are less likely to be adopted by employers who currently perform fit testing using other quantitative or qualitative fit tests because of the significant equipment and training investment that they already have made to administer these fit tests. For example, OSHA estimates, based on information from TSI, that switching from qualitative to quantitative fit testing would require upfront costs of $8,700 to $12,000 per machine (OSHA–2015–0015–0012).

OSHA has estimates of the number of users of the PortaCount® technology at the establishment level, both from the manufacturer and from the 2001 NIOSH Respirator Survey. However, what is not known is how many respirator wearers, that is, employees, are fit tested using a PortaCount® device. As described in the PEA, OSHA expects that economies of scale will apply in this situation—larger establishments will be more likely to encounter situations needing QNFT, but will also have more employees over which to spread the capital costs. OSHA received no comments about its understanding of employer size in relation to QNFT use. Once employers have invested capital in a quantitative fit testing device, they have more of an incentive to perform QNFT in a given situation, even if not technically required to use QNFT in every situation. Also, some QNFT devices are acquired by third parties, or ''fit testing houses,'' that provide fit testing services to employers. In short, as put forth in the PEA, OSHA believes that employers using PortaCount® QNFT will process more respirator wearers than the average establishment. OSHA received no comments about this conclusion.

As set forth in the PEA, if one started with an estimate of 12,000 establishments using PortaCount®

[13] As discussed in the ''Summary and Explanation,'' several comments (OSHA–2015–0015–0022, OSHA–2015–0015–0032, OSHA–2015–0015–0042) expressed concern about the estimated decrease in total ambient test time included as part of the protocol. The ''Summary and Explanation'' explains why this test time is reasonable and sufficient in this context. However, the comments did not question the total estimated time savings for the new protocols, per se.

[14] TSI indicated that as of the beginning of 2018, there were no active competitors, but that at least one company may be entering the market later in the year (OSHA–2015–0015–0046).

[15] TSI later confirmed this information still applied in 2018, even after the introduction of their new models (OSHA–2015–0015–0046).

[16] As indicated by TSI in 2015 (OSHA–2015–0015–0012). As explained later on in this FEA, the aggregate cost savings were based on estimates of current use of the 8030 and 8038 models. As the market is now being augmented with the 8040 and 8048 models, it is likely a conservative estimate of the potential cost savings.

models 8030 and 8038 annually for all of their employees and assumed an average of 100 respirator wearers fit tested annually per establishment, this yielded an estimate of 1.2 million respirator wearers that could potentially benefit from the new QNFT protocols.[17] Alternatively, as also set out in the PEA, a similar estimate would have been obtained if one assumed, employing data from the 2001 NIOSH Respirator Survey, that 50 percent of the devices requiring QNFT (such as full-facepiece elastomeric negative pressure respirators) use PortaCount® currently, as well as 25 percent of half-mask elastomeric respirators, and 10 percent of filtering facepieces.[18] These estimates in the PEA were not questioned in public comment. In the intervening period between the PEA and the FEA, the total number of employees and estimated respirator wearers increased somewhat, raising the estimated number of respirator wearers affected by the rulemaking, based on survey data, to approximately 1.3 million.

If applied to approximately 1.3 million respirators wearers, an estimated savings of 5 minutes per respirator wearer would equal over 100,000 hours of employee time saved annually. Consistent with Department of Labor policy for translating the labor time savings into dollar cost savings for this FEA, OSHA included an overhead rate when estimating the marginal cost of labor in its primary cost calculation. Overhead costs are indirect expenses that cannot be tied to producing a specific product or service. Common examples include rent, utilities, and office equipment. Unfortunately, there is no general consensus on the cost elements that fit this definition. The lack of a common definition has led to a wide range of overhead estimates. Consequently, the treatment of overhead costs needs to be case-specific. OSHA adopted an overhead rate of 17 percent of base wages, consistent with overhead rates used for other regulatory compliance rules.[19] For example, this is consistent with the overhead rate used for sensitivity analyses in the 2017 Improved Tracking FEA and the FEA in support of OSHA's 2016 final standard on Occupational Exposure to Respirable Crystalline Silica. For example, in this case, to calculate the total labor cost for a typical respirator wearer, based on the mean worker wage, three components are added together: Base wage ($23.86) + fringe benefits ($10.42—43.7% of $23.86);[20] and the applicable overhead costs ($4.06—17% of $23.86). This results in an hourly labor cost of a respirator wearing employee to $38.34. This implies an estimated cost savings of $4.1 million attributable to the adoption of the new fit testing protocols.

Because the $4.1 million represents annual cost savings, the final estimate is the same when discounted at either 3 or 7 percent. For the same reason, when the Department of Labor uses a perpetual time horizon to allow for cost comparisons under E.O. 13771, the annualized cost savings of the final rule are also $4.1 million with 7 percent discounting. As indicated earlier, this final estimate includes an overhead factor in the labor costs. This is estimated to add an additional savings of approximately 12%, or over $400,000, on what would have been an estimated savings of $3.6 million.

In addition to costs related to the respirator wearer's time, there will also likely be time savings for the person administering the fit tests. However, OSHA did not include this cost savings element in the PEA because it lacked specific empirical information on this point at the time of the proposal. OSHA requested comment on this question, but did not receive any. While OSHA believes this element of the cost savings is potentially substantial, it is not a critical element for the FEA, as it is simply a question of how large the cost savings are, and not required, for example, to determine economic feasibility. Therefore, OSHA is maintaining in the final analysis the same analytical approach used in the PEA.[21]

In addition, as discussed, this FEA does not account for potential conversions from testing methods other than the original ambient aerosol CNC protocol. While such conversions could further increase time and cost savings, OSHA cannot predict the number of conversions with confidence. In short, while certain factors could change the precise cost savings estimates in the FEA, OSHA believes its estimates reasonably capture the direction and order of magnitude of the rulemaking's economic effects.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (as amended), OSHA has examined the regulatory requirements of the final rule to determine whether these requirements will have a significant economic impact on a substantial number of small entities. This rule will impose no required costs and could provide a cost savings in excess of $4 million per year to regulated entities. While measureable in the aggregate, these savings will be dispersed widely, and therefore are not estimated to have a substantial economic impact on any small entity, although the impacts are estimated to be positive. The Assistant Secretary for Occupational Safety and Health therefore certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

Overview

The Paperwork Reduction Act (PRA) requires that agencies obtain approval from OMB before conducting any collection of information (44 U.S.C. 3507). The PRA defines ''collection of information'' to mean ''the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format'' (44 U.S.C. 3502(3)(A)).

In accordance with the PRA, 44 U.S.C. 3506(c)(2), OSHA solicited public comments on proposed revisions to the Respiratory Protection Standard Information Collection Request (ICR) (paperwork burden hour and cost

[17] TSI estimated the number of users of their devices at over 12,000 establishments (OSHA–2015–0015–0012). As indicated in the PEA, this was consistent with data from the 2001 NIOSH respirator survey (OSHA–2015–0015–0045), which, if benchmarked to a 2012 count of establishments (OSHA–2015–0015–0048) and containing fit testing methods to include ambient aerosol, generated aerosol, and a proportionally allocated percentage of the ''don't know'' respondents, would provide an estimate of 12,458 establishments using PortaCount® currently. Based on information from TSI, the large majority of these are estimated to be the newer 8030 and 8038 devices.

[18] Based on the 2001 NIOSH respirator survey (OSHA–2015–0015–0045), benchmarked to 2015 County Business Patterns (OSHA–2015–0015–0048), OSHA estimates 1,273,616 (or approximately 1.3 million) employees will be affected by the rulemaking. These estimates are based only on private employers. Accounting for governmental entities would result in an even larger number of total estimated respirator users affected.

[19] The methodology was modeled after an approach used by the Environmental Protection Agency. More information on this approach can be found at: U.S. Environmental Protection Agency, ''Wage Rates for Economic Analyses of the Toxics Release Inventory Program,'' June 10, 2002. This analysis itself was based on a survey of several large chemical manufacturing plants: Heiden Associates, *Final Report: A Study of Industry Compliance Costs Under the Final Comprehensive Assessment Information Rule,* Prepared for the Chemical Manufacturers Association, December 14, 1989.

[20] Mean wage rate of $23.86 (OSHA–2015–0015–0043), assuming fringe benefits are 30.4 percent of total compensation (OSHA–2015–0015–0043), or by extension, 43.7% of base wages (1/(1–bw)).

[21] For example, in the PEA OSHA posited that the time saved may potentially be as much as a 1:1 ratio between the tester and those being tested. But, for purposes of argument, if the ratio was only 1:4 (or the equivalent of 1 minute 15 seconds of tester's time per employee tested), OSHA estimates the cost savings related to the tester would be an additional $1.3 million.

analysis) for the information collection requirements associated with the *Additional PortaCount® Quantitative Fit-Testing Protocols: Amendment to Respiratory Protection Standard* proposed rule (81 FR 69747). The Department submitted this ICR to OMB for review in accordance with 44 U.S.C. 3507(d) on October 7, 2016. A copy of the ICR for the proposed rule is available to the public at: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201511-1218-005.*

Solicitation of Comments

On November 22, 2016, OMB issued a Notice of Action withholding its approval of the ICR. OMB requested that, ''[p]rior to publication of the final rule, the agency should provide a summary of any comments related to the information collection and their response, including any changes made to the ICR as a result of comments. In addition, the agency must enter the correct burden estimates.''

No public comments were received specifically in response to the proposed ICR submitted to OMB for review. However, several public comments submitted in response to the NPRM, described earlier in this preamble, substantively addressed provisions containing collections of information and included information relevant to the burden hour and costs analysis. These comments are addressed in the preamble, and OSHA considered them when it developed the revised ICR associated with this final rule. See the comment analysis in section II.D above.

Under the PRA, a Federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the PRA, and the collection of information notice displays a currently valid OMB control number (44 U.S.C. 3507(a)(3)). Also, notwithstanding any other provision of law, no employer shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number (44 U.S.C. 3512). The revised information collection requirements found in the final rule are summarized below.

The Department of Labor has submitted the final ICR concurrent with the publication of this final rule. The ICR contains a full analysis and description of the burden hours and costs associated with the information collection requirements of the final rule to OMB for approval. A copy of the ICR is available to the public at *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201904-1218-002.* OSHA will publish a separate notice in the **Federal Register** announcing the results of OMB's review. That notice will also include a list of OMB-approved information collection requirements and the total burden hours and costs imposed by the final rule.

The additional protocols adopted in this final rule revise the information collection in a way that reduces existing burden hours and costs. In particular, the information collection requirement specified in paragraph (m)(2) of OSHA's Respiratory Protection Standard, at 29 CFR 1910.134, states that employers must document and maintain the following information on quantitative fit tests administered to employees: The name or identification of the employee tested; the type of fit test performed; the specific make, model, style, and size of respirator tested; the date of the test; and the test results. The employer must maintain this record until the next fit test is administered. While the information on the fit test record remains the same, the time to obtain the necessary information for the fit test record is reduced since the additional PortaCount® protocols will take an employer less time to administer than those currently approved in appendix A of the Respiratory Protection Standard. As a result, the total estimated burden hours decrease by 201,640 hours, from 7,622,100 to 7,420,460 hours. This decrease is a result of the more efficient protocols established under the final rule. OSHA accounts for this burden under the Information Collection Request, or paperwork analysis, for the Respiratory Protection Standard (OMB Control Number 1218–0099). Note that OSHA cannot require compliance with the information collection requirements for the new information collection in this final rule until OMB has approved the information collection requirements.

Title of Collection: Respiratory Protection Standard (29 CFR1910.134).

OMB Control Number: 1218–0099.

Affected Public: Private Sector—business or other for-profits.

Total Estimated Number of Respondents: 24,710,469.

Total Estimated Number of Responses: 25,042,236.

Total Estimated Annual Time Burden Hours: 7,420,460.

Total Estimated Annual Other Burden: $316,906,665.

D. Federalism

OSHA reviewed this rulemaking according to the Executive Order on Federalism (E.O. 13132, 64 FR 43255, Aug. 10, 1999), which requires that Federal agencies, to the extent possible, refrain from limiting state policy options, consult with states before taking actions that would restrict states' policy options and take such actions only when clear constitutional authority exists and the problem is of national scope. The Executive Order provides for preemption of state law only with the expressed consent of Congress. Federal agencies must limit any such preemption to the extent possible.

Under section 18 of the Occupational Safety and Health Act (the ''Act,'' 29 U.S.C. 651 *et seq.*), Congress expressly provides that states may adopt, with Federal approval, a plan for the development and enforcement of occupational safety and health standards (29 U.S.C. 667). OSHA refers to states that obtain Federal approval for such a plan as ''State Plan states.'' Occupational safety and health standards developed by State Plan states must be at least as effective in providing safe and healthful employment and places of employment as the Federal standards. Subject to these requirements, State Plan states are free to develop and enforce under state law their own requirements for occupational safety and health standards. With respect to states that do not have OSHA-approved plans, OSHA concludes that this standard conforms to the preemption provisions of the Act. Section 18 of the Act prohibits states without approved plans from issuing citations for violations of OSHA standards. OSHA finds that the rule does not expand this limitation. Therefore, for States that do not have approved occupational safety and health plans, the rule will not affect the preemption provisions of Section 18 of the Act.

OSHA's rulemaking to adopt additional fit testing protocols under its Respiratory Protection Standard at 29 CFR 1910.134 is consistent with Executive Order 13132 because the problems addressed by these fit testing requirements are national in scope. OSHA concludes that the fit testing protocols adopted by this rulemaking provide employers in every state with procedures that will assist them in protecting their employees from the risks of exposure to atmospheric hazards. In this regard, the rule offers thousands of employers across the nation an opportunity to use additional protocols to assess respirator fit among their employees. Therefore, the rule provides employers in every state with an alternative means of complying with the fit testing requirements specified by paragraph (f) of OSHA's Respiratory Protection Standard.

Section 18(c)(2) of the Act (29 U.S.C. 667(c)(2)) requires State Plan states to

adopt an OSHA standard, or to develop and enforce an alternative that is at least as effective as the OSHA standard. However, the new fit testing protocols adopted by this rulemaking provide employers with alternatives to the existing fit testing protocols specified in the Respiratory Protection Standard; therefore, the alternative is not, itself, a mandatory standard. Accordingly, states with OSHA-approved State Plans are not obligated to adopt the additional fit testing protocols adopted here. Nevertheless, OSHA strongly encourages them to adopt the final provisions to provide additional compliance options to employers in their states.

In summary, this rulemaking complies with Executive Order 13132. In states without OSHA-approved State Plans, this rulemaking limits state policy options in the same manner as other OSHA standards. In State Plan states, this rulemaking does not significantly limit state policy options.

E. State Plan States

Section 18(c)(2) of the Act (29 U.S.C. 667(c)(2)) requires State Plan states to adopt mandatory standards promulgated by OSHA, or to develop and enforce an alternative that is at least as effective as the OSHA standard. However, as noted in the previous section of this preamble, states with OSHA-approved State Plans are not obligated to adopt the provisions of this final rule. Nevertheless, OSHA strongly encourages them to adopt the final provisions to provide compliance options to employers in their States. In this regard, OSHA concludes that the fit testing protocols adopted by this rulemaking provide employers in the State Plan states with procedures that protect the safety and health of employees who use respirators against hazardous airborne substances in their workplace at least as well as the quantitative fit testing protocols in appendix A of the Respiratory Protection Standard.

There are 28 states and U.S. territories that have their own OSHA-approved occupational safety and health programs called State Plans. The following 22 State Plans cover state and local government employers and private-sector employers: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. The following six State Plans cover state and local government employers only: Connecticut, Illinois, Maine, New Jersey, New York, and the Virgin Islands.

F. Unfunded Mandates Reform Act

OSHA reviewed this rulemaking according to the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501–1507) and Executive Order 12875 (58 FR 58093 (1993)). As discussed above in section III.B of this preamble (''Final Economic Analysis and Regulatory Flexibility Certification''), OSHA has determined that the rule imposes no additional costs on any private-sector or public-sector entity. The substantive content of the rule applies only to employers whose employees use respirators for protection against airborne contaminants, and compliance with the protocols contained in the final rule are strictly optional for these employers. Accordingly, the final rule does not require additional expenditures by either public or private employers. Therefore, this rulemaking is not a significant regulatory action within the meaning of Section 202 of the UMRA, 2 U.S.C. 1532.

As noted above under Section E (''State Plan States'') of this preamble, OSHA standards do not apply to state or local governments except in states that have voluntarily elected to adopt an OSHA-approved State Plan. Consequently, this final rulemaking does not meet the definition of a ''Federal intergovernmental mandate'' (see 2 U.S.C. 658(5)). Therefore, for the purposes of the UMRA, the Assistant Secretary for Occupational Safety and Health certifies that this rulemaking does not mandate that state, local, or tribal governments adopt new, unfunded regulatory obligations, or increase expenditures by the private sector of more than $100 million in any year.

G. Applicability of Existing Consensus Standards

Section 6(b)(8) of the Act (29 U.S.C. 655(b)(8)) requires OSHA to explain ''why a rule promulgated by the Secretary differs substantially from an existing national consensus standard,'' by publishing ''a statement of the reasons why the rule as adopted will better effectuate the purposes of the Act than the national consensus standard.'' The American National Standards Institute (ANSI) developed a national consensus standard on fit testing protocols (''Respirator Fit Testing Methods,'' ANSI Z88.10–2001) as an adjunct to its national consensus standard on respiratory protection programs. ANSI/AIHA updated the Z88.10 standard in 2010 (''Respirator Fit Testing Methods,'' ANSI Z88.10–2010) (OSHA–2015–0015–0007).

Paragraph 7.2 of ANSI/AIHA Z88.10–2010 specifies the requirements for conducting a particle-counting-instrument (*e.g.,* PortaCount®) quantitative fit test. The modified CNC protocols adopted by the final rule are variations of this national consensus standard's particle counting-instrument quantitative fit test procedures: The new protocols require the same 30-second duration for fit testing exercises, but not the same exercises as ANSI/AIHA. However, Annex A2 of ANSI/AIHA Z88.10–2010 recognizes that a universally accepted measurement standard for respirator fit testing does not exist and provides specific requirements for evaluating new fit testing methods. OSHA has concluded that the modified CNC protocols submitted by TSI meet the evaluation criteria outlined in ANSI/AIHA Z88.10–2010, Annex A2.

H. Advisory Committee for Construction Safety and Health (ACCSH) Review of the Proposed Standard

The Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 3704), OSHA regulations governing the Advisory Committee for Construction Safety and Health (ACCSH) (*i.e.,* 29 CFR 1912.3), and provisions governing OSHA rulemaking (*i.e.,* 29 CFR 1911.10) require OSHA to consult with the ACCSH whenever OSHA proposes a rule involving construction activities. Specifically, 29 CFR 1911.10 requires that the Assistant Secretary provide the ACCSH with ''any proposal of his own,'' together with ''all pertinent factual information available to him, including the results of research, demonstrations, and experiments.''

The addition of two quantitative fit test protocols to appendix A of OSHA's Respiratory Protection Standard affects the construction industry because it revises the fit testing procedures used in that industry (see 29 CFR 1926.103). Accordingly, OSHA provided the ACCSH members with TSI's application letter, supporting documents, and other relevant information, prior to the December 4, 2014 ACCSH meeting. OSHA explained its proposal to add new protocols to the ACCSH at that meeting, and the ACCSH unanimously approved proceeding with a proposed rule.

List of Subjects in 29 CFR Part 1910

Fit testing, Hazardous substances, Health, Occupational safety and health, Respirators, Respiratory protection, Toxic substances.

Authority and Signature

Loren Sweatt, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, authorized the preparation of this document pursuant to Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), 29 CFR part 1911, and Secretary's Order 1–2012 (77 FR 3912).

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

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

Amendments to the Standard

For the reasons stated in the preamble, the agency amends 29 CFR part 1910 as follows:

PART 1910—[AMENDED]

Subpart I—[Amended]

■ 1. Revise the authority citation for subpart I of part 1910 to read as follows:

Authority: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable, and 29 CFR part 1911.

■ 2. Amend Part I in appendix A to § 1910.134 as follows:

■ a. Revise Section A.14(a) introductory text;

■ b. In Section C.3:

■ i. Revise the introductory text; and

■ ii. Remove the terms ''Portacount™'' and ''Portacount'' and add in their place the term ''PortaCount®'';

■ c. Redesignate Sections C.4 and 5 of as Sections C.6 and 7;

■ d. Add new Sections C.4 and 5; and

■ e. In newly redesignated Section C.7:

■ i. Revise paragraph (a) and paragraph (b) introductory text; and

■ ii. Redesignate Table A–1 as Table A–3; and

The revisions and additions read as follows:

§ 1910.134 Respiratory protection.

* * * * *

APPENDIX A to § 1910.134—FIT TESTING PROCEDURES (MANDATORY)

Part I. OSHA—Accepted Fit Test Protocols

A. Fit Testing Procedures—General Requirements

* * * * *

14. Test Exercises. (a) Employers must perform the following test exercises for all fit testing methods prescribed in this appendix, except for the two modified ambient aerosol CNC quantitative fit testing protocols, the CNP quantitative fit testing protocol, and the CNP REDON quantitative fit testing protocol. For the modified ambient aerosol CNC quantitative fit testing protocols, employers shall ensure that the test subjects (*i.e.,* employees) perform the exercise procedure specified in Part I.C.4(b) of this appendix for full-facepiece and half-mask elastomeric respirators, or the exercise procedure specified in Part I.C.5(b) for filtering facepiece respirators. Employers shall ensure that the test subjects (*i.e.,* employees) perform the exercise procedure specified in Part I.C.6(b) of this appendix for the CNP quantitative fit testing protocol, or the exercise procedure described in Part I.C.7(b) of this appendix for the CNP REDON quantitative fit testing protocol. For the remaining fit testing methods, employers shall ensure that the test exercises are performed in the appropriate test environment in the following manner:

* * * * *

C. Quantitative Fit Test (QNFT) Protocols

* * * * *

3. Ambient aerosol condensation nuclei counter (CNC) quantitative fit testing protocol.

The ambient aerosol condensation nuclei counter (CNC) quantitative fit testing (PortaCount®) protocol quantitatively fit tests respirators with the use of a probe. The probed respirator is only used for quantitative fit tests. A probed respirator has a special sampling device, installed on the respirator, that allows the probe to sample the air from inside the mask. A probed respirator is required for each make, style, model, and size that the employer uses and can be obtained from the respirator manufacturer or distributor. The primary CNC instrument manufacturer, TSI Incorporated, also provides probe attachments (TSI mask sampling adapters) that permit fit testing in an employee's own respirator. A minimum fit factor pass level of at least 100 is necessary for a half-mask respirator (elastomeric or filtering facepiece), and a minimum fit factor pass level of at least 500 is required for a full-facepiece elastomeric respirator. The entire screening and testing procedure shall be explained to the test subject prior to the conduct of the screening test.

* * * * *

4. Modified ambient aerosol condensation nuclei counter (CNC) quantitative fit testing protocol for full-facepiece and half-mask elastomeric respirators.

(a) When administering this protocol to test subjects, employers shall comply with the requirements specified in Part I.C.3 of this appendix (ambient aerosol condensation nuclei counter (CNC) quantitative fit testing protocol), except they shall use the test exercises described below in paragraph (b) of this protocol instead of the test exercises specified in section I.C.3(a)(6) of this appendix.

(b) Employers shall ensure that each test subject being fit tested using this protocol follows the exercise and duration procedures, including the order of administration, described in Table A–1 of this appendix.

TABLE A–1— MODIFIED AMBIENT AEROSAL CNC QUANTITATIVE FIT TESTING PROTOCOL FOR FULL FACEPIECE AND HALF–MASK ELASTOMERIC RESPIRATORS

Exercises [1]	Exercise procedure	Measurement procedure
Bending Over	The test subject shall bend at the waist, as if going to touch his/her toes for 50 seconds and inhale 2 times at the bottom [2].	A 20 second ambient sample, followed by a 30 second mask sample.
Jogging-in-Place	The test subject shall jog in place comfortably for 30 seconds	A 30 second mask sample.
Head Side-to-Side	The test subject shall stand in place, slowly turning his/her head from side to side for 30 seconds and inhale 2 times at each extreme [2].	A 30 second mask sample.
Head Up-and-Down	The test subject shall stand in place, slowly moving his/her head up and down for 39 seconds and inhale 2 times at each extreme [2].	A 30 second mask sample followed by a 9 second ambient sample.

[1] Exercises are listed in the order in which they are to be administered.
[2] It is optional for test subjects to take additional breaths at other times during this exercise.

5. Modified ambient aerosol condensation nuclei counter (CNC) quantitative fit testing protocol for filtering facepiece respirators.

(a) When administering this protocol to test subjects, employers shall comply with the requirements specified in Part I.C.3 of this appendix (ambient aerosol condensation nuclei counter (CNC) quantitative fit testing protocol), except they shall use the test exercises described below in paragraph (b) of this protocol instead of the test exercises specified in section I.C.3(a)(6) of this appendix.

(b) Employers shall ensure that each test subject being fit tested using this protocol follows the exercise and duration procedures, including the order of administration, described in Table A–2 of this appendix.

TABLE A–2— MODIFIED AMBIENT AEROSAL CNC QUANTITATIVE FIT TESTING PROTOCOL FOR FILTERING FACEPIECE RESPIRATORS

Exercises [1]	Exercise procedure	Measurement procedure
Bending Over	The test subject shall bend at the waist, as if going to touch his/her toes for 50 seconds and inhale 2 times at the bottom [2].	A 20 second ambient sample, followed by a 30 second mask sample.
Talking	The test subject shall talk out loud slowly and loud enough so as to be heard clearly by the test conductor for 30 seconds. He/she will either read from a prepared text such as the Rainbow Passage, count backward from 100, or recite a memorized poem or song.	A 30 second mask sample.
Head Side-to-Side	The test subject shall stand in place, slowly turning his/her head from side to side for 30 seconds and inhale 2 times at each extreme [2].	A 30 second mask sample.
Head Up-and-Down	The test subject shall stand in place, slowly moving his/her head up and down for 39 seconds and inhale 2 times at each extreme [2].	A 30 second mask sample followed by a 9 second ambient sample.

[1] Exercises are listed in the order in which they are to be administered.
[2] It is optional for test subjects to take additional breaths at other times during this exercise.

* * * * *

7. Controlled negative pressure (CNP) REDON quantitative fit testing protocol.

(a) When administering this protocol to test subjects, employers must comply with the requirements specified in paragraphs (a) and (c) of part I.C.6 of this appendix (''Controlled negative pressure (CNP) quantitative fit testing protocol,'') as well as use the test exercises described below in paragraph (b) of this protocol instead of the test exercises specified in paragraph (b) of part I.C.6 of this appendix.

(b) Employers must ensure that each test subject being fit tested using this protocol follows the exercise and measurement procedures, including the order of administration described in Table A–3 of this appendix.

* * * * *

[FR Doc. 2019–20686 Filed 9–25–19; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0756]

RIN 1625–AA00

Safety Zone, Wilmington River, Savannah, GA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters on the Wilmington River 1,000 feet on the north and south side of the Islands Expressway Bridge in Savannah, GA. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the placement of multiple spans for the new Islands Expressway Bridge. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Savannah or a designated representative.

DATES: This rule is effective without actual notice from September 26, 2019 to 2:00 p.m. on October 22, 2019. For the purposes of enforcement, actual notice will be used from 8:00 a.m. on September 18, 2019 through September 26, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2019–0756 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST1 Rachel Crowe, Marine Safety Unit Savannah Office of Waterways Management, Coast Guard; telephone 912–652–4353, extension 243, or email *Rachel.M.Crowe@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. Immediate action is needed to respond to the potential safety hazards created by the placement of multiple spans for the new Islands Expressway Bridge. The Coast Guard received information on August 27, 2019 regarding the operations beginning on September 18, 2019. The operation would begin before the rulemaking process would be completed. Because of the dangers posed by the placement of multiple spans, the safety zone is necessary to provide for the safety of persons, vessels, and the marine environment in the event area.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential safety hazards associated with the construction and placement of multiple spans.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The COTP Savannah has determined that potential hazards associated with the placement of multiple spans for the new Islands Expressway Bridge starting September 18, 2019, will be a safety concern for anyone within 1,000 feet of the north and south side of the Islands Expressway Bridge. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during bridge construction.

IV. Discussion of the Rule

This rule establishes a safety zone from 8:00 a.m. on September 18, 2019

to 2:00 p.m. on September 20, 2019, 8:00 a.m. on September 23, 2019 to 2:00 p.m. on September 27, 2019, 8:00 a.m. on September 30, 2019 to 2:00 p.m. on October 4, 2019, 8:00 a.m. on October 14, 2019 to 2:00 p.m. on October 18, 2019, 8:00 a.m. on October 21, 2019 to 2:00 p.m. on October 22, 2019. The safety zone will cover all navigable waters within 1,000 feet on the north and south side of the Islands Expressway Bridge, Savannah, GA. Weather contingency days have been factored into this timeframe. If the safety zone is not enforced on weather contingency days, the Coast Guard will notify the public via Broadcast Notice to Mariners and will update the Local Notice to Mariners.

The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during placement of multiple spans for the new Islands Expressway Bridge. No vessel or person will be permitted to enter, transit through, anchor in, or remain within the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. The safety zone is only in effect for navigable waters within 1,000 feet of the Islands Expressway Bridge on the north and south side during the placement of multiple spans for the new Islands Expressway Bridge. Vessels and persons seeking to enter, transit through, anchor in, or remain within the regulated area may seek authority from the COTP or a designated representative. The Coast Guard will provide notification of the regulated area to the local maritime community by Local Notice to Mariners, Broadcast Notice to Mariners via VHF–FM marine channel 16, and Marine Safety Information Bulletin release.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone during the placement of multiple spans for the new Islands Expressway Bridge. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of

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

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T07–0756 to read as follows:

§ 165.T07–0756 Safety Zone, Wilmington River, Savannah, GA.

(a) *Regulated area.* The following areas are established as safety zones: All waters of the Wilmington River within 1,000 feet on the north and south side of the Islands Expressway Bridge, Wilmington River in Savannah, GA.

(b) *Definition.* As used in this section, ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels or aircraft, and federal, state, and local officers designated by or assisting the Captain of the Port (COTP) Savannah in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area of the safety zone unless authorized by the COTP Savannah or a designated representative.

(2) Persons or vessels desiring to enter, transit through, anchor in, or remain within the safety zone may contact COTP Savannah by telephone at (912) 652–4353 × 243, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the COTP Savannah or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP Savannah or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, Marine Safety Information Bulletins, and on-scene designated representatives.

(d) *Effective and enforcement period.* This section is effective without actual notice from September 26, 2019 to 2:00 p.m. on October 22, 2019. For the purposes of enforcement, actual notice will be used from 8:00 a.m. on September 18, 2019 through September 26, 2019. This section will be enforced intermittently from 8:00 a.m. on September 18, 2019 to 2:00 p.m. on September 20, 2019, 8:00 a.m. on September 23, 2019 to 2:00 p.m. on September 27, 2019, 8:00 a.m. on September 30, 2019 to 2:00 p.m. on October 4, 2019, 8:00 a.m. on October 14, 2019 to 2:00 p.m. on October 18, 2019, 8:00 a.m. on October 21, 2019 to 2:00 p.m. on October 22, 2019.

(e) *Notice of suspension of enforcement.* If the safety zone described in paragraph (a) of this section is not enforced on the days listed in paragraph (d) of this section, the Coast Guard will notify the public via Broadcast Notice to Mariners and will update the Local Notice to Mariners.

Dated: September 16, 2019.

Judson A. Coleman,

Lieutenant Commander, U.S. Coast Guard, Acting Captain of the Port Savannah.

[FR Doc. 2019–20565 Filed 9–25–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2018–0813; FRL–10000–25–Region 4]

Air Plan Approval; Georgia; 2008 8-Hour Ozone Interstate Transport

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing approval of Georgia's August 15, 2018, State Implementation Plan (SIP) submission pertaining to the ''good neighbor'' provision of the Clean Air Act (CAA or Act) for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS). The good neighbor provision requires each state's implementation plan to address the interstate transport of air pollution in amounts that contribute significantly to nonattainment, or interfere with maintenance, of a NAAQS in any other state. In this action, EPA is finalizing the determination that Georgia will not contribute significantly to nonattainment or interfere with maintenance of the 2008 8-hour ozone NAAQS in any other state. Therefore, EPA is approving Georgia's August 15, 2018, SIP revision as meeting the requirements of the good neighbor provision for the 2008 8-hour ozone NAAQS.

DATES: This rule will be effective October 28, 2019.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2018–0813. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the 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. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Evan Adams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Mr. Adams can also be reached via telephone at (404) 562–9009 and via electronic mail at *adams.evan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On March 12, 2008 (73 FR 16436), EPA promulgated an ozone NAAQS that revised the levels of the primary and secondary 8-hour ozone standards from 0.08 parts per million (ppm) to 0.075 ppm. See 73 FR 16436 (March 27, 2008). Pursuant to CAA section 110(a)(1), within three years after promulgation of a new or revised NAAQS (or shorter, if EPA prescribes), states must submit SIPs that meet the applicable requirements of section 110(a)(2). EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. One of the structural requirements of section 110(a)(2) is section 110(a)(2)(D)(i), which generally requires SIPs to contain adequate provisions to prohibit in-state emissions activities from having certain adverse air quality effects on neighboring states due to interstate transport of air pollution.

There are four sub-elements, or ''prongs,'' within section 110(a)(2)(D)(i) of the CAA. CAA section 110(a)(2)(D)(i)(I), also known as the ''good neighbor'' provision, requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from emitting any air pollutant in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS in another state. The two provisions of this section are referred to as prong 1 (significant contribution to nonattainment) and prong 2 (interference with maintenance). Section 110(a)(2)(D)(i)(II) requires SIPs to contain adequate provisions to prohibit emissions that will interfere with measures required to be included in the applicable implementation plan for any other state under part C to prevent significant deterioration of air quality (prong 3) or to protect visibility (prong 4).

On August 15, 2018, the Georgia Environmental Protection Division provided a SIP submittal to EPA to address the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2008 8-hour ozone NAAQS, containing a certification that the State's SIP meets the requirements of prongs 1 and 2. Georgia's certification is based on available emissions data, air quality monitoring and modeling data, SIP-approved [1] provisions regulating emissions of ozone precursors within the State, and an analysis of recent trends in emissions of ozone precursors (VOCs and NO_X) from Georgia sources.

In a notice of proposed rulemaking (NPRM) published on July 11, 2019 (84 FR 33027), EPA proposed to determine that Georgia will not contribute significantly to nonattainment or interfere with maintenance of the 2008 8-hour ozone NAAQS in any other state and to approve Georgia's August 15, 2018, SIP submission as meeting the CAA requirements of prongs 1 and 2 under section 110(a)(2)(D)(i)(I) for the 2008 8-hour ozone NAAQS.[2] In that notice, EPA discussed the final determination made in the update to the Cross-State Air Pollution Rule ozone season program, which addresses good neighbor obligations for the 2008 8-hour ozone NAAQS (known at the ''CSAPR Update''),[3] that emissions activities within Georgia will not significantly contribute to nonattainment or interfere with maintenance of that NAAQS in any other state. The NPRM provides additional detail regarding the background and rationale for EPA's action. Comments on the NPRM were due on or before August 12, 2019. EPA received no comments on the NPRM.

II. Final Action

EPA is taking final action to determine that Georgia will not contribute significantly to nonattainment or interfere with maintenance of the 2008 8-hour ozone NAAQS in any other state. Therefore, EPA is finalizing approval of Georgia's August 15, 2018, SIP submission as meeting the CAA requirements of prongs 1 and 2 under section 110(a)(2)(D)(i)(I) for the 2008 8-hour ozone NAAQS. EPA is taking final action to approve the SIP submission because it is consistent with section 110 of the CAA.

III. Statutory and Executive Order Reviews

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

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

The SIP is not approved to apply on any Indian reservation land or in any

[1] Although not relied upon for purposes of approval, GA EPD also identified state-only provisions of the Georgia Rules for Air Quality Control 391–3–1–.02(2)(sss)—Multipollutant Control for Electric Utility Steam Generating Units.

[2] This action addresses only prongs 1 and 2 of section 110(a)(2)(D)(i). All other infrastructure SIP elements for Georgia for the 2008 8-hour ozone NAAQS were addressed in separate rulemakings. *See* 83 FR 19637 (May 4, 2018); 80 FR 61109 (October 9, 2015); and 80 FR 14019 (March 18, 2015).

[3] *See* 81 FR 74504 (October 26, 2016). The CSAPR Update establishes statewide nitrogen oxide (NO_X) budgets for certain affected electricity generating units in 22 eastern states for the May–September ozone season to reduce the interstate transport of ozone pollution in the eastern United States, and thereby help downwind states and communities meet and maintain the 2008 8-hour ozone NAAQS. The rule also determined that emissions from 14 states (including Georgia) will not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in downwind states. Accordingly, EPA determined that it need not require further emission reductions from sources in those states to address the good neighbor provision with regard to the 2008 ozone NAAQS. *Id.*

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.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 25, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: September 11, 2019.

Mary S. Walker,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52–APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart L–Georgia

■ 2. Section 52.570(e) is amended by adding an entry for ''110(a)(1) and (2) Infrastructure Requirements for the 2008 8-Hour Ozone NAAQS'' at the end of the table to read as follows:

§ 52.570 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED GEORGIA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
*	*	*	*	*
110(a)(1) and (2) Infrastructure Requirements for the 2008 8-Hour Ozone NAAQS.	Georgia	8/15/2018	9/26/2019, [Insert citation of publication].	Addressing prongs 1 and 2 of section 110(a)(2)(D)(i)(I) only.

[FR Doc. 2019–20551 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2019–0240; FRL–10000–01–Region 9]

Designation of Areas for Air Quality Planning Purposes: California; Coachella Valley 8-Hour Ozone Nonattainment Area; Reclassification to Extreme; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: On July 10, 2019, the Environmental Protection Agency (EPA) published in the **Federal Register** a rule entitled ''Designation of Areas for Air Quality Planning Purposes; California; Coachella Valley 8-Hour Ozone Nonattainment Area; Reclassification to Extreme.'' That publication inadvertently included the incorrect docket number for the rule. This document corrects that error.

DATES: This document is effective on September 26, 2019.

FOR FURTHER INFORMATION CONTACT: Tom Kelly, Air Planning Office (AIR–2), EPA Region IX, (415) 972–3856, *kelly.thomasp@epa.gov*.

SUPPLEMENTARY INFORMATION: On July 10, 2019 (84 FR 32841), the EPA published a final rule entitled ''Designation of Areas for Air Quality Planning Purposes; California; Coachella Valley 8-Hour Ozone Nonattainment Area; Reclassification to Extreme'' that granted a request from the State of California to reclassify the Coachella Valley nonattainment area from ''Severe-15'' to ''Extreme'' for the 1997 ozone national ambient air quality standards. That publication incorrectly identified the docket number, which could make it difficult for members of the public to locate documents related to the reclassification. This document corrects the docket number in that rule.

In FR Doc. 2019–14612, published July 10, 2019 (84 FR 32841), make the following corrections:

1. On page 32841, in the third column, correct the docket number for ''Designation of Areas for Air Quality Planning Purposes; California; Coachella Valley 8-Hour Ozone Nonattainment Area; Reclassification to Extreme'' to read: ''[EPA–OAR–R09–2019–0240; FRL–9996–12–Region 9]''

2. On page 32842, in the first column, correct the first sentence of the **ADDRESSES** caption to read:

''The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2019–0240''.

Dated: September 6, 2019.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2019–20424 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2018–0194; FRL–9998–87]

Cyclaniliprole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of cyclaniliprole in or on multiple commodities that are identified and discussed later in this document. ISK Biosciences Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective September 26, 2019. Objections and requests for hearings must be received on or before November 25, 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–2018–0194, 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, Director, 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 Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.''

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–2018–0194 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 25, 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–2018–0194, 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 Tuesday, 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 a pesticide petition (PP 7F8651) by ISK Biosciences Corporation, 7470 Auburn Rd, Suite A, Concord, OH 44077. The petition requested that 40 CFR 180.694 be amended by establishing tolerances for residues of the insecticide cyclaniliprole, 3-bromo-N-[2-bromo-4-chloro-6-[[(1-cyclopropylethyl)amino] carbonyl]phenyl]-1-(3-chloro-2-pyridinyl)-1H-pyrazole-5-carboxamide, in or on the following commodities: Citrus fruit (crop group 10–10) at 0.5 parts per million (ppm); tuberous & corm vegetables (crop group 1C) at 0.01 ppm; and berry & small fruit (crop subgroup 13–07A, 13–07B, 13–07E except grape, and 13–07G) at 1.5 ppm. That document referenced a summary of the petition prepared by ISK Biosciences Corporation, 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 is establishing tolerances that vary from the levels requested as allowed by section 408(d)(4)(A)(i) of FFDCA. The reason for these changes are explained in Unit IV.D.

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 cyclaniliprole including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with cyclaniliprole is summarized as follows.

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.

No single or repeated dose study performed by any route of exposure produced an adverse effect following cyclaniliprole exposure at dose levels below, at, or above the limit dose (1,000 milligrams/kilogram/day (mg/kg/day)). Although the oral toxicity studies in dogs were conducted at approximately a third of the limit dose, no adverse effects were seen. It is unlikely that cyclaniliprole would produce adverse liver effects, if tested at higher doses in dogs as a structurally related chemical, chlorantraniliprole, was tested up to the limit dose in dogs and did not demonstrate liver effects. There is no evidence that cyclaniliprole produces increased susceptibility with prenatal or postnatal exposures. Cyclaniliprole is considered not likely to be carcinogenic based on no increase in treatment-related tumor incidence in carcinogenicity studies in rats and mice and no genotoxicity.

Specific information on the studies received for cyclaniliprole as well as the no-observed-adverse-effect-level (NOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document, ''Cyclaniliprole: Human Health Risk Assessment for the Proposed New Uses on Bushberry Subgroup 13–07B; Caneberry Subgroup 13–07A; Citrus Fruit Crop Group 10–10; Low Growing Berry Subgroup 13–07G; Small Fruit Vine Climbing (except Grape) Subgroup 13–07E; and Tuberous and Corm Vegetables Crop Subgroup 1C.'', dated October 17, 2018 in docket ID number EPA–HQ–OPP–2018–0194.

Based on the review of the available cyclaniliprole toxicological studies, no toxicity endpoints or points of departure were selected for risk assessment. Based on the toxicological profile of cyclaniliprole, EPA has concluded that the FFDCA requirements to retain an additional safety factor for protection of infants and children and to consider cumulative effects do not apply. Section 408(b)(2)(C) requires an additional tenfold margin of safety in the case of threshold risks, which cyclaniliprole does not present. Section 408(b)(2)(D)(v) requires consideration of information concerning cumulative effects of substances that have a common mechanism of toxicity, which cyclaniliprole does not have.

There is a potential for exposure to cyclaniliprole residues via food and drinking water based on existing uses and the proposed uses for cyclaniliprole application directly to growing crops. These applications can also result in cyclaniliprole reaching surface and ground water, both of which can serve as sources of drinking water. Moreover, there are no proposed uses in residential settings; therefore, there are no anticipated residential exposures.

Determination of safety. Based on the available data indicating a lack of adverse effects from exposure to cyclaniliprole, 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 cyclaniliprole.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methods have been proposed for plants (Method JSM0269) and livestock commodities (Method JSM0277). For plants and livestock, cyclaniliprole residues are extracted using acetonitrile, cleaned up and analyzed by liquid chromatography with tandem mass spectrometry (LC–MS/MS). The validated limit of quantitation (LOQ) was 0.01 ppm for plants and livestock commodities. All concurrent recoveries of cyclaniliprole at the fortification level of 0.01 ppm in the field trials and processing studies were within the acceptable range of 70–120%. The method is considered suitable for enforcement purposes. Adequate independent laboratory validation (ILV) and adequate radio-validation studies were conducted for the methods.

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 Codex has not established MRLs for cyclaniliprole.

C. Revisions to Petitioned-For Tolerances

Tolerances were requested for citrus fruit (crop group 10–10) at 0.5 ppm; tuberous & corm vegetables (crop group 1C) at 0.01 ppm; and berry & small fruit (crop subgroup 13–07A, 13–07B, 13–07E except grape, and 13–07G) at 1.5 ppm.

EPA considered commodity definitions and additional information provided by ISK Biosciences Corporation, including field trial residues that were adjusted by proportionality to reflect the proposed used pattern and used the Organization for Economic Cooperation and Development (OECD) statistical calculation procedures to determine the appropriate tolerance value which resulted in a different tolerance value for each of these subgroups than what the petitioner requested.

EPA is establishing separate subgroup tolerances for fruit, citrus, group 10–10, in anticipation of the establishment of subgroup MRLs by Codex, rather than a single group MRL. For citrus fruit crop group 10–10, EPA is establishing tolerances for orange subgroup 10–10A at 0.4 ppm, lemon/lime subgroup 10–10B at 0.3 ppm, and grapefruit subgroup 10–10C at 0.2 ppm. Based on processing studies, EPA is further establishing tolerances for fruit, citrus, group 10–10, oil at 30 ppm in accordance with its regulatory requirement to establish tolerances for processed commodities made necessary by the use of the

pesticide on the commodities in the underlying crop group.

For tuberous & corm vegetables (crop group 1C), EPA is establishing the tolerance at 0.01 ppm. Based on processing information and in accordance with 40 CFR 180.40(f), EPA is further establishing a tolerance for potato (wet peel) at 0.06 ppm.

For the berries, the registrant proposed tolerances as berry and small fruit (Crop Subgroups 13–07A, 13–07B, 13–07E (except grape), and 13–07G at 1.5 ppm. HED is recommending for individual crop subgroup tolerances, with the tolerance level based on the representative commodities for the specific subgroups. For the berry and small fruit subgroups, EPA is establishing the tolerance for caneberry subgroup 13–07A at 0.8 ppm; bushberry subgroup 13–07B at 1.5 ppm; fruit, small vine climbing (except grape) subgroup 13–07E at 1 ppm; and berry, low growing, subgroup 13–07G at 0.4 ppm.

V. Conclusion

Although the lack of toxicity supports a safety finding for an exemption from the requirement of tolerance for all crops, EPA is establishing tolerances for residues resulting from direct applications to certain commodities because the petitioner requested them for international trade purposes. Tolerances are established for residues of cyclaniliprole, 3-bromo-N-[2-bromo-4-chloro-6-[[(1-cyclopropylethyl)amino]carbonyl] phenyl]-1-(3-chloro-2-pyridinyl)-1Hpyrazole-5-carboxamide in or on orange subgroup 10–10A at 0.4 ppm; lemon/lime subgroup 10–10B at 0.3 ppm; grapefruit subgroup 10–10C at 0.2 ppm; and fruit, citrus, group 10–10, oil at 30 ppm; vegetable, tuberous and corm, subgroup 1C at 0.01 ppm; and potato, wet peel at 0.06 ppm; caneberry subgroup 13–07A at 0.8 ppm; bushberry subgroup 13–07B at 1.5 ppm; fruit, small, vine climbing, except grape, subgroup 13–07E at 1 ppm; and berry, low growing, subgroup 13–07G at 0.4 ppm.

VI. Statutory and Executive Order Reviews

This action establishes 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 tolerance 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: September 10, 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 § 180.694, add alphabetically the following commodities to the table in paragraph (a) to read as follows:

§ 180.694 Cyclaniliprole; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Berry, low growing, subgroup 13–07G	0.4
Bushberry subgroup 13–07B	1.5
Caneberry subgroup 13–07A	0.8
* * * * *	
Fruit, citrus, group 10–10, oil	30
* * * * *	
Fruit, small, vine climbing, except grape, subgroup 13–07E	1
* * * * *	
Grapefruit subgroup 10–10C	0.2
* * * * *	
Lemon/lime subgroup 10–10B	0.3
* * * * *	
Orange subgroup 10–10A	0.4
Potato, wet peel	0.06
* * * * *	
Vegetable, tuberous and corm, subgroup 1C	0.01

* * * * *

[FR Doc. 2019–20525 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2018–0645; FRL–9998–67]

Florpyrauxifen-benzyl; 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 the florpyrauxifen-benzyl on all food and feed commodities when applied or used as an herbicide under good agricultural practices. This regulation eliminates the need to establish a maximum permissible level for residues of florpyrauxifen-benzyl.

DATES: This regulation is effective September 26, 2019. Objections and requests for hearings must be received on or before November 25, 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–2018–0645, 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–2018–0645 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 25, 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–2018–0645, 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 Action

In the **Federal Register** of December 21, 2018 (83 FR 65660) (FRL–9985–67), 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 8F8675) by Dow AgroSciences, 9330 Zionsville Road, Indianapolis, IN 46268. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of florpyrauxifen-benzyl. That document referenced a summary of the petition prepared by the petitioner, Dow AgroSciences, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

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. . . .''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

A. Toxicological Profile

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information 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. The nature of the toxic effects caused by florpyrauxifen-benzyl are discussed in this unit.

Florpyrauxifen-benzyl is not genotoxic and there were no treatment related findings up to the limit dose (1,000 milligrams/kilogram (mg/kg)/day) or highest doses tested in the acute, short-term, sub-chronic, or chronic oral toxicity studies, 2-generation reproduction or developmental toxicity studies or in the neurotoxicity study.

Chronic administration of florpyrauxifen-benzyl did not show any carcinogenicity potential and did not cause any adverse effects in mice, rats or dogs even up to the highest doses tested. Given the absence of adverse effects or toxicity in the database, the Agency did not establish any toxicity endpoints or points of departure for conducting a quantitative risk assessment. In a qualitative assessment of risk, the Agency does not use uncertainty factors, which means that the safety factor required section 408(b)(2)(C) of FFDCA in the case of threshold effects for the protection of infants and children is not applicable. The Agency has determined that there are no residual uncertainties in the toxicity or exposure databases, and there is no evidence of increased susceptibility of infants or children from exposure to florpyrauxifen-benzyl. Based on its review of the available data, the Agency concludes that a qualitative assessment without uncertainty or safety factors would be safe for infants and children.

Specific information on the studies received and the nature of the adverse effects caused by florpyrauxifen-benzyl 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 titled ''Florpyrauxifen-benzyl: New Active Ingredient, First Food Use. Human Health Risk Assessment for the Establishment of Permanent Tolerances on Rice, Fish, and Shellfish and Registration for Uses on Rice and Freshwater Aquatic Weed Control'' in docket ID number EPA–HQ–OPP–2018–0645.

B. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

There is potential for exposure to florpyrauxifen-benzyl via food and drinking water based on the proposed and approved uses. In addition, there is a potential for non-occupational, non-dietary exposure to swimmers in waters treated with florpyrauxifen-benzyl. But because no adverse effects were observed in the submitted toxicological studies for florpyrauxifen-benzyl regardless of the route of exposure, a qualitative assessment of risk is appropriate for this compound.

C. 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 florpyrauxifen-benzyl to share a common mechanism of toxicity with any other substances, and florpyrauxifen-benzyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that florpyrauxifen-benzyl 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 chemicals, see EPA's website at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

D. Determination of Safety for U.S. Population, Infants and Children

Based on the information in this preamble and the supporting documentation, EPA concludes that there is a reasonable certainty of no harm from aggregate exposure to florpyrauxifen-benzyl residues. Accordingly, EPA finds that exempting florpyrauxifen-benzyl residues from the requirement of a tolerance when applied or used as an herbicide in accordance with good agricultural practices will be safe.

IV. Analytical Enforcement Methodology

An analytical method is not required because EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation because of the lack of toxicity concern about the presence of residues.

V. Conclusion

Therefore, an exemption is established for residues of florpyrauxifen-benzyl, including its metabolites and degradates, in or on all food commodities, when it is applied as an herbicide according to good agricultural practices. In addition, although not requested in the petition, EPA is removing from the Title 40 of the Code of Federal Regulations section 180.695 and the established tolerances on fish—freshwater finfish; fish—shellfish, crustacean; fish—shellfish, mollusc; and rice, grain. The residues on those commodities are subsumed within the new exemption, so the existing numerical tolerances are redundant and 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.

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.

§ 180.695 [Removed]

■ 2. Remove § 180.695.

■ 3. Add § 180.1371 to subpart D to read as follows:

§ 180.1371 Florpyrauxifen-benzyl; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of florpyrauxifen-benzyl, including its metabolites and degradates, in or on all food and feed commodities, when it is applied as an herbicide in accordance with good agricultural practices.

[FR Doc. 2019–20530 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R05–RCRA–2018–0375; FRL–10000–08–Region 5]

Ohio: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final authorization.

SUMMARY: The Environmental Protection Agency (EPA) is granting Ohio final authorization for changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Agency published a proposed rule on June 11, 2019 and provided for public comment. No comments were received on the proposed revisions. No further opportunity for comment will be provided.

DATES: This final authorization is effective September 26, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R05–RCRA–2018–0375. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Jean Gromnicki, Ohio Regulatory Specialist, US EPA Region 5, LL–17J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)–886–6162, email *Gromnicki.jean@epa.gov*.

SUPPLEMENTARY INFORMATION:

A. What changes to Ohio's hazardous waste program is EPA authorizing with this action?

On February 19, 2019, Ohio submitted a complete program revision application seeking authorization of changes to its hazardous waste program in accordance with 40 CFR 271.21. EPA now makes a final decision that Ohio's hazardous waste program revisions that are being authorized are equivalent to, consistent with, and no less stringent than the Federal program, and therefore satisfy all of the requirements necessary to qualify for final authorization. For a list of State rules being authorized with this final authorization, please see the proposed rule published in the June 11, 2019 **Federal Register** at 84 FR 27057.

B. What is codification and is EPA codifying the Ohio's hazardous waste program as authorized in this action?

Codification is the process of placing citations and references to the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. EPA does this by adding those citations and references to the authorized State rules in 40 CFR part 272. EPA is not codifying the authorization of Ohio's revisions at this time. However, EPA reserves the ability to amend 40 CFR part 272, subpart KK, for the authorization of Ohio's program changes at a later date.

C. Statutory and Executive Order Reviews

This final authorization revises Ohio's authorized hazardous waste management program pursuant to Section 3006 of RCRA and imposes no requirements other than those currently imposed by State law. For further information on how this authorization complies with applicable executive orders and statutory provisions, please see the proposed rule published in the June 11, 2019, **Federal Register** at 84 FR 27057. The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document 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 in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final action will be effective September 26, 2019.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: September 4, 2019.

Cheryl L. Newton,

Acting Regional Administrator, Region 5.

[FR Doc. 2019–20553 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 52

[AU Docket No. 19–101; WC Docket No. 17–192; CC Docket No. 95–155; FCC 19–75]

Auction of Toll Free Numbers in the 833 Code; Notice and Filing Requirements, Upfront Payments, and Other Procedures for the 833 Auction; Bidding Scheduled To Occur on December 17, 2019

AGENCY: Federal Communications Commission.

ACTION: Final action; requirements and procedures.

SUMMARY: This document summarizes procedures for the upcoming auction of certain toll free numbers in the 833 code (833 Auction). The *833 Auction Procedures Public Notice* summarized here is intended to familiarize applicants with the procedures and other requirements governing participation in the 833 Auction and provides overview of the post-auction payment and toll free number reservation processes and secondary market transaction disclosures.

DATES: Application to participate in the 833 Auction must be submitted prior to 6:00 p.m. ET on October 18, 2019. Upfront payments for the 833 Auction must be received by 6:00 p.m. ET on November 27, 2019. Bidding in Auction 103 is scheduled to occur on December 17, 2019.

FOR FURTHER INFORMATION CONTACT: For auction legal questions, Scott Mackoul in the Auctions Division of the Office of Economics and Analytics at (202) 418–0660. For toll free number questions, Matthew Collins in the Wireline Competition Bureau's Competition Policy Division at (202) 418–7141.

SUPPLEMENTARY INFORMATION: This is a summary of the Public Notice (*833 Auction Procedures Public Notice*), AU Docket No. 19–101; WC Docket No. 17–192; CC Docket No. 95–155, FCC 19–75, adopted on August 1, 2019 and released on August 2, 2019. The complete text of the *833 Auction Procedures Public Notice* is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW, Room CY–A257, Washington, DC 20554. The complete text is also available on the Commission's website at *https://www.fcc.gov/wireline-competition/competition-policy-division/numbering-resources/833-toll-free-number-auction* or by using the search function for AU Docket No. 19–101, WC Docket No. 17–192, or CC Docket No. 95–155 on the Commission's ECFS web page at *www.fcc.gov/ecfs/.* Alternative formats are available to persons with disabilities by sending an email to *FCC504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

I. General Information

A. Introduction

1. With the *833 Auction Procedures Public Notice,* the Commission establishes procedures for the upcoming auction of certain toll free numbers in the 833 code (833 Auction). The 833 Auction, which will serve as an experiment in using competitive bidding as a way to assign toll free numbers, will make available 17,638 numbers in the 833 code. Bidding in the 833 Auction will occur on December 17, 2019. The *833 Auction Procedures Public Notice* provides details regarding the procedures, terms, and conditions, as well as dates and deadlines, governing participation in the 833 Auction, and an overview of post-auction payments and requirements, including disclosure requirements for post-auction secondary market transactions.

B. Background and Relevant Authority

2. In 2018, the Commission modified its toll free assignment rule in the *Toll Free Assignment Modernization Order,* 83 FR 53377, October 23, 2018, to provide greater flexibility and permit alternative approaches to assigning numbers. Specifically, the Commission added competitive bidding as a method to assign toll free numbers and, as an experiment in using this approach, established the 833 Auction to assign numbers that were requested by two or more Responsible Organizations (''RespOrgs'') during the 833 pre-code opening process.

3. The Commission set out the general framework for the 833 Auction in the *Toll Free Assignment Modernization Order* and designated Somos, Inc., the Toll Free Numbering Administrator, as the auctioneer. The Commission opened participation in the 833 Auction to not only RespOrgs but also potential subscribers who may wish to participate directly. The Commission also called for a pre-bidding process during which it would seek comment on detailed auction procedures, as is typical in Commission auctions.

4. In May 2019, the Commission initiated the pre-bidding process by

releasing a public notice seeking comment on auction procedures to be used in the 833 Auction. Seven parties submitted filings in response to the *833 Auction Comment Public Notice,* 84 FR 24424, May 28, 2019.

5. Section 251(e)(1) of the Communications Act of 1934, as amended (the Act), empowers the Commission to ensure that toll free numbers are allocated in an equitable and orderly manner that serves the public interest. Pursuant to this statutory mandate, the Commission has the authority to set policy with respect to all facets of numbering administration in the United States, and must do so in an efficient, fair, and orderly manner. As in the *Toll Free Assignment Modernization Order,* the actions the Commission takes in the *833 Auction Procedures Public Notice* are designed to meet the statutory requirement that numbers be made ''available on an equitable basis,'' by establishing auction and secondary market procedures that are efficient, orderly, and fair.

6. In addition to the *Toll Free Assignment Modernization Order,* other Commission decisions and rules provide additional information useful to any party interested in participating in the 833 Auction. For example, many of the application and bidding requirements set forth in the *833 Auction Procedures Public Notice* are based on the Commission's general competitive bidding rules. Thus, prospective applicants should familiarize themselves with those rules, including recent amendments and clarifications, as well as Commission decisions in proceedings regarding competitive bidding procedures and application requirements.

7. Moreover, as part of their due diligence responsibilities, applicants must be thoroughly familiar with the procedures, terms, and conditions contained in *833 Auction Procedures Public Notice* and any future public notices that may be released in the 833 Auction proceeding (AU Docket No. 19–101, WC Docket No. 17–192, CC Docket No. 95–155). The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in its public notices at any time and will issue public notices to convey new or supplemental information to applicants. It is the responsibility of all applicants to remain current with all Commission rules and with all public notices pertaining to the 833 Auction. Copies of most auctions-related Commission documents, including public notices, can be retrieved at *www.fcc.gov/auctions,* and copies of documents related to the 833 Auction can be retrieved at *https://www.fcc.gov/wireline-competition/competition-policy-division/numbering-resources/833-auction.* Additionally, documents are available through Somos at *http://auction.somos.com/* and at the Commission's headquarters, located at 445 12th Street SW, Washington, DC 20554, during normal business hours.

C. Toll Free Numbers Offered in 833 Auction

8. In the 833 pre-code opening process, the Commission's Wireline Competition Bureau authorized RespOrgs to identify up to 2,000 desired numbers in the 833 code and submit a request for those numbers to Somos. Somos identified 17,638 toll free numbers as requested by two or more RespOrgs and placed those numbers in unavailable status. In the *Toll Free Assignment Modernization Order,* the Commission announced that the rights to use these 17,638 toll free numbers in the 833 code would be offered in the 833 Auction.

9. The Commission, in the *Toll Free Assignment Modernization Order,* provided one exception to making these numbers available in the 833 Auction by allowing government entities and non-profit health and safety organizations to file petitions to set aside numbers from the auction for use for public health and safety purposes. On April 16, 2019, the Wireline Competition Bureau released a Public Notice seeking petitions to set aside toll free numbers pursuant to this exception. No petitions were submitted. Consequently, all 17,638 numbers previously identified as having multiple requests will be offered in the 833 Auction. 833 Auction applicants must select the toll free numbers (from the available list) for which they may bid on their auction applications. If a particular available toll free number is not selected on *any* auction application, it will not be available in the auction. A complete list of these 17,638 numbers is available in electronic format only at *http://auction.somos.com/.*

D. Auction Specifics

1. Auctioneer

10. In the *Toll Free Assignment Modernization Order,* the Commission designated Somos as the auctioneer for the 833 Auction. As such, Somos will be required to implement the procedures established in the *833 Auction Procedures Public Notice* to conduct the auction, including: Accepting applications to participate in the bidding (auction applications); reviewing the applications for sufficiency; accepting upfront payments; announcing which applicants are qualified to bid (qualified bidders); accepting and processing the bids; announcing the winning bidders; and accepting final payments. To accomplish these tasks, Somos must provide an online system(s) for the 833 Auction that will accept auction applications and bids (collectively Somos Auction System) and Somos must provide procedures to accept both upfront and final payments.

2. Auction Dates and Deadlines

11. The following dates and deadlines apply to the 833 Auction:

Auction Registration, Application, and Bidding Tutorials Available (via internet)–No later than September 11, 2019

Auction Application (FCC Form 833) Filing Window Opens—October 7, 2019; 12:00 noon Eastern Time (ET)

Auction Application (FCC Form 833) Filing Window Deadline—October 18, 2019; 6:00 p.m. ET

Upfront Payments—November 27, 2019; 6:00 p.m. ET

Mock Auction—December 13, 2019

Bidding in the 833 Auction—December 17, 2019

3. Requirements for Participation

12. Those wishing to participate in the 833 Auction must:

- Register for an Auction ID online through the Somos Auction System;
- Submit an auction application (FCC Form 833) electronically through the Somos Auction System prior to 6:00 p.m. ET on October 18, 2019, following filing procedures set forth in the *833 Auction Procedures Public Notice* and any FCC Form 833 instructions provided by Somos;
- Submit a sufficient upfront payment to Somos by 6:00 p.m. ET on November 27, 2019, following the procedures set forth in the *833 Auction Procedures Public Notice;* and
- Comply with all provisions outlined in the *833 Auction Procedures Public Notice* and applicable Commission rules and orders.

II. Implementation of 833 Auction Principles

13. In the *Toll Free Assignment Modernization Order,* the Commission established certain principles to promote the transparency and efficiency of the 833 Auction, and reduce the potential for conflicts of interest and anticompetitive strategic behavior by participants. The Commission sought comment in the *833 Auction Comment*

Public Notice on specific procedures to implement these principles, and in the *833 Auction Procedures Public Notice,* the Commission describes how these principles will be implemented for the 833 Auction.

A. Participation Through Single Applicant and Application

14. The Commission adopts the proposal in the *833 Auction Comment Public Notice* to allow a potential subscriber to participate in the 833 Auction either (1) through a RespOrg that will bid on all the numbers in which the subscriber is interested in acquiring, or (2) by submitting its own application and bidding for all the numbers in which it is interested. Thus, a potential subscriber cannot selectively choose to be represented by a RespOrg to bid on its behalf for some numbers and submit an application on its own to bid for other numbers.

15. In the *Toll Free Assignment Modernization Order,* the Commission required that potential subscribers participate in the 833 Auction through only a single auction applicant. In the *833 Auction Comment Public Notice,* the Commission proposed to implement this principle by requiring that a potential subscriber may participate either through a RespOrg that will bid on all the numbers that the subscriber is interested in acquiring, or by submitting its own application and bidding for all of the numbers in which it is interested. The Commission received one comment on this issue. CenturyLink agrees with the Commission's proposal, asserting that this ''bright line on participation'' will help parties clarify their roles and promote the integrity of the auction process. The Commission agrees with CenturyLink's assessment and also believes the proposed application procedure is consistent with the requirement that a potential subscriber may participate through only a single auction applicant, which is necessary to implement the prohibition on certain communications, and with the decision to prohibit certain agreements among auction applicants. Thus, the Commission adopts the application procedure as proposed. If a potential subscriber is represented on applications submitted by multiple RespOrgs, or files its own application and is also represented on a RespOrg application, only one of the applications on which it is represented may become qualified to bid (*i.e.,* any additional subscriber application(s) will be dismissed and/or any additional RespOrg applications will not be found qualified to bid for the potential subscriber's selected toll free number(s)).

16. In the *833 Auction Comment Public Notice,* the Commission proposed two certifications in the auction application related to the single applicant/application mandate. First, it proposed that the auction application require that each applicant certify that (i) if it is bidding on its own behalf, it is also not participating in the auction through another entity, and/or (ii) if it is bidding on behalf of potential subscriber(s), it is not aware that the potential subscriber(s) are participating through another applicant. Second, the Commission proposed requiring each applicant to certify that it, or any commonly-controlled entity, is not submitting multiple applications in the 833 Auction. The Commission received no comments on the proposed certifications, and concludes that the certifications should aid in enforcing the single applicant/application mandate. Thus, every applicant must certify in its auction application that: (1) It is not participating in the auction through another entity; (2) it is not aware that any entity on whose behalf it is bidding is participating through another applicant; and (3) it, or any commonly-controlled entity, is not submitting multiple applications in the 833 Auction. This language clarifies language proposed in the *833 Auction Comment Public Notice* in order to emphasize that the requirement to bid only through a single applicant applies to every applicant, regardless of whether it is bidding on its own behalf, or on behalf of another entity. Moreover, by ''commonly-controlled entity,'' the Commission means an entity that controls or is controlled by another party.

17. To identify commonly controlled entities in the 833 Auction, the *833 Auction Comment Public Notice* proposed to define a ''controlling interest'' as an individual or entity with positive or negative de jure or de facto control of the applicant. As noted in the 833 Auction Comment Public Notice, the Commission's part 1 rules state that de jure control includes holding 50 percent or more of the voting stock of a corporation or holding a general partnership interest in a partnership. Ownership interests that are held indirectly by any party through one or more intervening corporations may be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that if the ownership percentage for an interest in any link in the chain meets or exceeds 50 percent or represents actual control, it may be treated as if it were a 100 percent interest. De facto control is determined on a case-by-case basis. Examples of de facto control include constituting or appointing 50 percent or more of the board of directors or management committee; having authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the entity; or playing an integral role in management decisions.

18. The *833 Auction Comment Public Notice* also sought comment on a presumption of control by spouses and immediate family members. In this context ''immediate family member'' would mean father, mother, husband, wife, son, daughter, brother, sister, father- or mother-in-law, son- or daughter-in-law, brother- or sister-in-law, step-father or -mother, step-brother or -sister, step-son or -daughter, half brother or sister. The Commission proposed to place the burden on applicants to sufficiently demonstrate that spouses or family members should not be treated as having an identity of interest such that it creates common control, and that where the presumption has not been adequately rebutted, such spouses and family members will be subject to the prohibition on submission of multiple auction applications by commonly controlled entities.

19. One commenter, 1–800 Contacts, opposes the Commission's proposal for defining the controlling interests of auction applicants, arguing that many toll free number subscribers are commonly owned ''through large investment funds or corporate conglomerates,'' but ''have no day-to-day involvement with each other'' and therefore, should be allowed to bid separately without having to develop a coordinated bidding strategy. 1–800 Contacts advocates a more lenient approach to controlling interests that would allow commonly owned (but not commonly controlled) entities to participate separately in the auction, specifically suggesting limiting control to ''de jure control combined with actual day-to-day involvement in the operational activities of the company.''

20. In the *Toll Free Assignment Modernization Order,* the Commission stated that, while it would seek comment and decide how to define parties with common controlling interests in the pre-auction process, it anticipated using the Commission's definitions adopted for similar purposes in its spectrum auctions (*e.g.,* § 1.2105(a)(4)(i) of the Commission's rules). The Commission is unconvinced by the arguments of 1–800 Contacts, and

it adopts the controlling interest standard as proposed in the *833 Auction Comment Public Notice—i.e.,* an individual or entity with positive or negative de jure or de facto control. Because entities that have control (either legal control or actual control) can behave in a coordinated fashion, entities with common controlling interests should not be able to participate through separate entities in the auction. Moreover, such an approach is simpler and is consistent with the Commission's approach for its spectrum auctions. As 1–800 Contacts itself notes, requiring a determination of actual day-to-day involvement (in addition to de jure control) would be subjective and may be difficult for other auction participants and Somos to definitively make. Further, unlike 1–800 Contacts, the Commission believes that the experimental nature of this auction supports consistency with the same standard that it uses in Commission auctions. If it uses the same standard applied in Commission auctions, participants in the 833 Auction can rely on any prior experience in Commission auctions and on Commission precedent for guidance. Thus, the Commission concludes that the controlling interest standard as proposed in the *833 Auction Comment Public Notice* is preferable and therefore adopts the proposal.

21. The Commission received no comments on the presumption of control by spouses and immediate family members proposed in the *833 Auction Comment Public Notice.* Therefore, it adopts the presumptions (and definitions) set forth therein, and notes that if an applicant wishes to rebut a presumption of control by a spouse or family member, it should do so in a narrative explanation to its auction application.

22. Additionally, the Commission reiterates that any 833 Auction applicants that have overlapping non-controlling interests must take steps to prevent communicating bid information with each other. Specifically, applicants with overlapping non-controlling interests must certify they have established internal controls to preclude any person acting on behalf of an applicant from possessing information about the bids or bidding strategies of more than one applicant or communicating such information to another person acting on behalf of and possessing such information regarding another applicant. The Commission will include such a certification in the auction application.

B. Prohibition on Certain Communications and Compliance With Antitrust Laws

23. Each applicant in the 833 Auction is prohibited from cooperating or collaborating with any other applicant with respect to its own, or one another's, or any other competing applicant's bids or bidding strategies. Each applicant will be prohibited from communicating, with any other applicant in any manner, the substance of its own, or one another's, or any other competing applicant's bids or bidding strategies (including with respect to the post-auction market for toll free numbers). The Commission proposed this prohibition in the *833 Auction Comment Public Notice* to reinforce existing antitrust laws, facilitate detection of collusive conduct, and deter anticompetitive behavior. The Commission received no comments on this proposal and therefore, for the reasons stated in proposing it, the Commission adopts the prohibition on certain communications for the 833 Auction.

1. Entities Subject to the Prohibition on Certain Communications

24. For purposes of the prohibition on certain communications, an ''applicant'' in the 833 Auction includes: (i) All controlling interests in the entity submitting the auction application; (ii) all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting the auction application; (iii) all officers and directors of that entity; and (iv) any entity listed as a potential subscriber on whose behalf the entity submitting the auction application will be bidding. As in the Commission's spectrum auctions, in the case of a consortium, each member of the consortium shall be considered to have a controlling interest in the consortium. The Commission proposed in the *833 Auction Comment Public Notice* to define ''applicant'' broadly for the purposes of the prohibition on certain communications, consistent with its spectrum license and universal service support auctions. One commenter, 1–800 Contacts, supports the proposal, stating that applying the prohibition broadly ''will help ensure the integrity of the auction process.'' The Commission agrees with this assessment and adopts the definition of applicant for purposes of the prohibition as proposed.

2. Prohibition Applies Until Final Payment With Late Fee Deadline

25. The prohibition on certain communications for the 833 Auction will begin at the deadline for submitting auction applications (*i.e.,* 6:00 p.m. on October 18, 2019) and will end at the deadline for winning bidders to submit their final payments with a late fee (*i.e.,* 15 business days after the winning bidders are announced).

26. In the *833 Auction Comment Public Notice,* the Commission stated that the prohibition on certain communications will begin at the auction application deadline and will end ''at the post-auction deadline for winning bidders to submit their final payments (which will be announced by Somos after bidding concludes).'' The Commission clarifies that, for ''final payment deadline,'' it will use the deadline for winning bidders to submit their final payments with a late fee. In the Commission's spectrum auctions, the prohibition on certain communications runs until the down payment deadline, and in its auctions for universal service support, the prohibition runs until the post-auction deadline for winning bidders to submit applications for support. For the 833 Auction, because winning bidders have neither a down payment nor a post-auction application requirement, the most analogous point is the final payment. However, the final payment in this auction can be made up to an additional five business days after the final payment deadline so long as it is submitted with a late fee. Since the rationale to extend the prohibited communications period until after bidding applies equally during the period in which an applicant can submit the final payment with a late fee, the Commission clarifies that the prohibition will run until that last deadline (*i.e.,* 15 business days after Somos announces the winning bidders).

3. Scope of the Prohibition on Certain Communications

27. As proposed in the *833 Auction Comment Public Notice,* an applicant will be prohibited from communicating, with any other applicant in any manner, the substance of its own, or one another's, or any other competing applicant's bids or bidding strategies (including with respect to the post-auction market for toll free numbers). In addition to express statements of bids and bidding strategies, the prohibition against communicating ''in any manner'' includes public disclosures as well as private communications and indirect or implicit communications.

Consequently, an applicant must take care to determine whether its auction-related communications may reach another applicant. The Commission reminds applicants that they must determine whether their communications with other parties are permissible once the prohibition begins at the deadline for submitting auction applications, even before the public notice identifying applicants is released.

28. Applicants should take special care in circumstances where their officers, directors, and employees may receive information directly or indirectly relating to any applicant's bids or bidding strategies. Such information may be deemed to have been received by the applicant under certain circumstances. For example, Commission staff have found that where an individual serves as an officer and director for two or more applicants, the bids and bidding strategies of one applicant are presumed conveyed to the other applicant through the shared officer, which creates an apparent violation of the rule.

29. As noted in the *833 Auction Comment Public Notice,* the prohibition will not apply to all communications between or among applicants; it will apply only to any communications conveying, in whole or part, directly or indirectly, the applicant's or a competing applicant's bids or bidding strategy (including with respect to the post-auction market for toll free numbers). Thus, communications, including business discussions and negotiations, unrelated to the toll free numbers being offered in the 833 Auction and that do not convey information about the numbers being auctioned or bidding strategies are not prohibited. Moreover, not all auction-related information is necessarily covered by the prohibition. For example, communicating merely whether a party has or has not applied to participate in the 833 Auction should not violate the prohibition. In contrast, communicating how a party will participate, including specific numbers or bid amounts, and/or whether or not a party will place bids, would convey bid or bidding strategies and therefore is prohibited.

30. Although the restriction does not prohibit business discussions and negotiations among auction applicants that are not auction related, each applicant must remain vigilant not to communicate, directly or indirectly, information that affects, or could affect, bids or bidding strategies. Certain discussions might touch upon subject matters that could convey price or geographic information related to bidding strategies. Such subject areas include, but are not limited to, management, sales, local marketing agreements, and other transactional agreements.

31. The Commission also cautions applicants that bids or bidding strategies may be communicated outside of situations that involve one party subject to the prohibition communicating privately and directly with another such party. For example, the Commission has warned that prohibited ''communications concerning bids and bidding strategies may include communications regarding capital calls or requests for additional funds in support of bids or bidding strategies to the extent such communications convey information concerning the bids and bidding strategies directly or indirectly.'' Moreover, the Commission previously found a violation of the rule against prohibited communications when an applicant used the Commission's bidding system to disclose ''its bidding strategy in a manner that explicitly invited other auction participants to cooperate and collaborate . . . in specific markets'' and has placed auction participants on notice that the use of its bidding system ''to disclose market information to competitors will not be tolerated and will subject bidders to sanctions.''

32. Likewise, when completing an auction application, each applicant should avoid any statements or disclosures that may violate the prohibition on certain communications, particularly in light of the limited information procedures in effect for the 833 Auction. Specifically, an applicant should avoid including any information in its auction application that might convey information regarding its toll free number selections, as applicable, such as referring to certain toll free numbers in describing agreements, including any information in application attachments that will be publicly available that may otherwise disclose the applicant's toll free number selections, or using applicant names that refer to numbers being offered.

33. Applicants also should be mindful that communicating non-public application or bidding information publicly or privately to another applicant may violate the prohibition on certain communications even though that information subsequently may be made public during later periods of the application or bidding processes.

4. Communicating With Third Parties

34. The 833 Auction's prohibition on certain communications does not prohibit an applicant from communicating bids or bidding strategies to a third-party, such as a consultant or consulting firm, counsel, or lender. The applicant should take appropriate steps, however, to ensure that any third party it employs for advice pertaining to its bids or bidding strategies does not become a conduit for prohibited communications to other specified parties, as that would violate the prohibition. For example, an applicant might require a third party, such as a lender, to sign a non-disclosure agreement before the applicant communicates any information regarding bids or bidding strategy to the third party. Within third-party firms, separate individual employees, such as attorneys or auction consultants, may advise individual applicants on bids or bidding strategies, as long as such firms implement firewalls and other compliance procedures that prevent such individuals from communicating the bids or bidding strategies of one applicant to other individuals representing separate applicants. Although firewalls and/or other procedures should be used, their existence is not an absolute defense to liability if a violation has occurred.

35. As Commission staff have explained in the context of the Broadcast Incentive Auction, in the case of an individual, the objective precautionary measure of a firewall is not available. As a result, an individual that is privy to bids or bidding information of more than one applicant presents a greater risk of becoming a conduit for a prohibited communication. The Commission will take the same approach to interpreting the prohibited communications rule in the 833 Auction. Moreover, the Commission emphasizes that whether a prohibited communication has taken place in a given case will depend on all the facts pertaining to the case, including who possessed what information, what information was conveyed to whom, and the course of bidding in the auction.

36. For purposes of the 833 Auction, the Commission prohibits separate applicants from designating the same individual on their auction applications to serve as an authorized bidder. This prevents a single individual with knowledge of the bidding strategies of more than one applicant from conveying (even unintentionally) advice to any of those applicants that is influenced by his or her knowledge about another applicant's bids or bidding strategies in violation of the prohibition on certain communications among auction applicants. A violation of the

prohibition could also occur if the authorized bidders are different individuals employed by the same organization (*e.g.,* a law firm, engineering firm, or consulting firm). In the latter case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communications between authorized bidders and that the applicant and its bidders will comply with the prohibition on certain communications.

37. The Commission reminds potential applicants that they may discuss the auction application or bids for specific toll free numbers with the counsel, consultant, or expert of their choice before the auction application deadline. Furthermore, the same third-party individual could continue to give advice regarding the application after the deadline, provided that no information pertaining to bids or bidding strategies, including toll free numbers selected on the auction application, is conveyed to that individual. To the extent potential applicants can develop bidding instructions prior to the application deadline that a third-party could implement without changes during bidding, the third-party could follow such instructions for multiple applicants provided that those applicants do not communicate with the third-party during the prohibition period.

38. Applicants also should use caution in their dealings with other parties, such as members of the press, financial analysts, or others who might become conduits for the communication of prohibited bidding information. For example, even though communicating that it has applied to participate in the auction will not violate the prohibition, an applicant's statement to the press of its intent not to place bids in the auction could give rise to a finding of a prohibited communications violation.

5. Certifications Related to the Prohibition on Certain Communications

39. When submitting its auction application, each applicant for the 833 Auction must certify its compliance with the prohibition on certain communications. One commenter supports this certification. As in the Commission's spectrum and universal service support auctions, the mere filing of a certifying statement as part of an application will not outweigh specific evidence that a prohibited communication has occurred, nor will it preclude the initiation of an investigation when warranted. Any applicant found to have violated the prohibition on certain communications may be subject to sanctions, including among other things, forfeiture and a prohibition from participating further in the 833 Auction and in any future Commission auctions.

6. Duty To Report Prohibited Communications

40. Any applicant that makes or receives a communication that appears to violate the prohibition on certain communications must report such communication in writing to the Commission and Somos staff immediately, and in no case later than five business days after the communication occurs. The Commission proposed this requirement in the *833 Auction Comment Public Notice* and received no comments on the proposal. Each applicant's obligation to report any such communication continues beyond the five-day period after the communication is made, even if the report is not made within the five-day period.

7. Procedures for Reporting Prohibited Communications

41. A party reporting any information or communication that appears to violate the prohibition on certain communications must take care to ensure that any report does not itself violate the prohibition. To minimize the risk of inadvertent dissemination of information in such reports, parties reporting a potential prohibited communication must submit a report directly to the following individuals: (1) Margaret W. Wiener, Chief, Auctions Division, Office of Economics and Analytics, by email to *833auction@fcc.gov;* and (2) Joel Bernstein, Vice President, Regulatory and Public Policy, Somos, by email to *auctionhelp@somos.com.*

42. Given the potential competitive sensitivity of public disclosure of information in such a report, a party seeking to report such a prohibited communication should consider submitting its report with a request that the report or portions of the submission be withheld from public inspection by following the procedures specified in § 0.459 of the Commission's rules. Such parties should use the contact information provided in the *833 Auction Procedures Public Notice* to consult with Somos and Commission staff about the procedures for submitting such reports.

8. Additional FCC Auction Information Concerning the Prohibition on Certain Communications

43. The Commission adopts its proposal in the *833 Auction Comment Public Notice* to rely on past precedent and guidance regarding its rules on prohibited communications in connection with Commission spectrum auctions. The Commission received no comments on this proposal. A summary listing of documents addressing the application of § 1.2105(c) of the Commission's rules (the rule on prohibited communications for Commission spectrum auctions) is available on the Commission's auction web page at *https://www.fcc.gov/summary-listing-documents-addressing-application-rule-prohibiting-certain-communications/.*

9. Antitrust Laws

44. Regardless of compliance with the Commission's rules, applicants remain subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace. Compliance with the duty to report prohibited communications will not insulate a party from enforcement of the antitrust laws. For instance, a violation of the antitrust laws could arise out of actions taking place well before any party submits an auction application. The Commission has cited a number of examples of potentially anticompetitive actions that would be prohibited under antitrust laws: for example, actual or potential competitors may not agree to divide territories in order to minimize competition, regardless of whether they split a market in which they both do business, or whether they merely reserve one market for one and another market for the other.

45. To the extent the Commission becomes aware of specific allegations that suggest that violations of the Federal antitrust laws may have occurred, the Commission may refer such allegations to the United States Department of Justice for investigation. If an applicant is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the competitive bidding process, it may be subject to a forfeiture and may be prohibited from participating further in the 833 Auction and in future auctions, among other sanctions.

C. Restrictions on Agreements

46. To ensure the competitiveness of the 833 Auction, the Commission proposed certain restrictions on agreements related to the toll free

numbers being auctioned. The *833 Auction Procedures Public Notice* addresses the proposals raised in the *833 Auction Comment Public Notice* to restrict agreements among auction applicants and agreements among RespOrgs and to disclose agreements between RespOrgs and potential subscribers.

1. Agreements Among Applicants

47. The Commission adopts its proposal in the *Auction 833 Comment Public Notice t*o prohibit certain agreements among applicants in the 833 Auction (regardless of whether the applicants are RespOrgs or potential subscribers). The Commission received no comments on this proposal. The prohibition applies to any agreements, arrangements, or understandings of any kind to which the applicant (including any party that controls or is controlled by the applicant) is a party relating to the toll free numbers being auctioned that address or communicate directly or indirectly bids (including specific prices), bidding strategies (including the specific numbers on which to bid or not to bid), or the post-auction market for toll free numbers.

48. The Commission also adopts its proposal to define ''applicant'' for these purposes broadly to include: All controlling interests in the entity submitting the auction application; all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting the auction application; all officers and directors of that entity; and any entity listed as a potential subscriber on whose behalf the entity submitting the auction application will be bidding. Although the definition of ''applicant'' for these purposes includes any entity listed as a potential subscriber on whose behalf the entity submitting the auction application will be bidding, the restriction does not prohibit the agreement necessary to provide authorization to the RespOrg applicant.

49. This prohibition will not apply to agreements unrelated to the toll free numbers being offered in the 833 Auction. Business discussions and negotiations that are unrelated to bidding in the 833 Auction and that do not convey information about the numbers being auctioned or bidding strategies are not prohibited, and thus, agreements reached by such communications unrelated to the toll free numbers being auctioned will not be prohibited.

2. Agreements Among RespOrgs

50. The Commission prohibits auction-related agreements among RespOrgs even where only one of the RespOrgs is an applicant in the 833 Auction. The Commission received no comments on the restriction proposed in the *833 Auction Comment Public Notice.* Given RespOrgs' position in the toll free number market, the Commission adopts its proposal to prohibit any applicant RespOrg from having an agreement related to the toll free numbers being offered in the 833 Auction with a non-applicant RespOrg. Thus, any RespOrg interested in acquiring the rights to any of the toll free numbers being auctioned must participate in the auction directly.

51. Similar to the prohibition on agreements among applicants, the prohibition among RespOrgs will not apply to agreements unrelated to the toll free numbers being offered in the 833 Auction. Because business discussions and negotiations that are unrelated to bidding in the 833 Auction and that do not convey information about the numbers being auctioned or bidding strategies are not prohibited, agreements reached by such communications unrelated to the toll free numbers being auctioned will not be prohibited.

52. In addition, the prohibition on agreements among RespOrgs would not apply to RespOrgs that are commonly controlled. Commonly-controlled entities are those in which the same individual or entity either directly or indirectly holds a controlling interest (as determined by positive or negative de jure or de facto control). When RespOrgs share a common officer or director or control, the Commission presumes that bids and bid strategies will be communicated. Moreover, the Commission reiterates, since commonly controlled RespOrgs cannot submit multiple applications, if they wish to apply for the 833 Auction, they will need to choose one of the entities to be the applicant and disclose the existence of the other commonly-controlled RespOrgs in the application.

3. Agreements Between RespOrgs and Potential Subscribers

53. Any applicant RespOrg that bids for a potential subscriber must acquire a letter of authorization from the potential subscriber. In the *833 Auction Comment Public Notice,* the Commission recognized the unique position of RespOrgs, in that they can participate in the auction both on their own behalf and on behalf of other entities. Thus, the Commission believes that the relationship between an applicant RespOrg and a potential subscriber for which it is applying to bid should be formally authorized and transparent so that it can be easily verified. To that end, the Commission proposed to require any applicant RespOrg that bids for a potential subscriber to acquire a letter of authorization from the potential subscriber. No comments were received on the proposal. Based on the need to verify the relationship, the Commission will require a letter of authorization that clearly identifies the parties (both the potential subscriber and RespOrg) and toll free number(s) in which the RespOrg will bid for the potential subscriber. That letter must be dated and signed by the potential subscriber. Moreover, because an applicant RespOrg bidding on behalf of a potential subscriber is ultimately responsible for complying with all post-auction requirements, it is the responsibility of the applicant RespOrg to ensure the authorization by the potential subscriber is adequate (*e.g.,* has been signed by a person with authority to bind the entity).

54. The *833 Auction Comment Public Notice* also sought comment on whether to require any applicant RespOrg bidding on behalf of a potential subscriber to provide the letter of authorization as part of its auction application (*e.g.,* by uploading it as an attachment) or to allow the applicant RespOrg to certify that it is in possession of the letter and be able to produce it to the Commission if requested. The Commission received no comments on either option. Since the upload process should not be burdensome and uploading the document should help Somos verify the relationship, the Commission will require any applicant RespOrg that is bidding on behalf of a potential subscriber to upload the letter of authorization as part of its auction application. The Commission directs Somos to withhold the public disclosure of these attachments until after the bidding, since the letters of authorization will contain specific information on toll free numbers being sought by the potential subscriber.

D. Limited Information Procedures During the Auction Process

55. Consistent with the procedures in many recent Commission auctions, the Commission adopts its proposal that Somos conduct the 833 Auction using procedures for limited information disclosure (sometimes also referred to as anonymous bidding). The Commission received no comments on its proposal to use limited information procedures.

Thus, the Commission directs Somos to withhold, until after the close of bidding and announcement of auction results, the public release of bidders' particular 833 number selections and any information that may reveal the identities of bidders placing bids and taking other bidding-related actions. More specifically, the following information will not be made public until after bidding has closed: (1) The numbers that an applicant selects for bidding in its auction application, (2) the amount of any upfront payment made by or on behalf of an applicant for the 833 Auction, (3) any applicant's bidding eligibility, and (4) any other bidding-related information that might reveal the identity of the bidder placing a bid or the amount of the bid.

56. Because the 833 Auction will be conducted using a single round of bidding, the Commission does not anticipate that there will be the same need for release of bidding-related actions during the auction that there would be in a multiple-round auction. If such circumstances were to arise prior to the release of non-public information and auction results, however, the Commission directs Somos to avoid releasing any information that may indicate the identity of any bidders taking such actions.

57. Moreover, after receiving no comments on the proposal in the *833 Auction Comment Public Notice* to make public bidders' number selections, upfront payment amounts, bids, and any other bidding-related actions and information after the close of bidding, the Commission adopts the proposal. The Commission believes making this information available to the public, after bidding is complete, will increase auction transparency and allow the public generally to evaluate the experiment in using competitive bidding as a toll free number assignment method.

E. Responsibility for Winning Bid Payment

58. Any 833 Auction applicant, including a RespOrg participating on behalf of one or more potential subscribers, assumes a binding obligation to pay its full winning bid amount, and is responsible for complying with all post-auction requirements, regardless of whether a potential subscriber on whose behalf the RespOrg bid fulfills its financial or contractual obligation to the RespOrg. While an applicant RespOrg may seek reimbursement from the potential subscriber for which it bid, the RespOrg—as the bidder in the auction—is ultimately responsible for full payment of any winning bid.

III. Applying To Participate in the 833 Auction

A. General Information Regarding the Auction Application

59. Any party interested in obtaining an 833 number available through the auction must submit an application (FCC Form 833) to become qualified to bid in the 833 Auction. An application to participate in the 833 Auction, referred to in the *833 Auction Procedures Public Notice* as an ''auction application,'' provides information that Somos, as the auctioneer, will use to determine whether the applicant is qualified to participate in the auction. Eligibility to participate in the 833 Auction is based on an applicant's auction application, including its certifications made under penalty of perjury, and on the applicant's submission of a sufficient upfront payment for the auction.

60. A party seeking to participate in the 833 Auction must file an FCC Form 833 electronically via the Somos Auction System prior to 6:00 p.m. ET on October 18, 2019, following the procedures prescribed in the *833 Auction Procedures Public Notice* and any FCC Form 833 instructions provided by Somos. The *833 Auction Procedures Public Notice* describes more fully the information disclosures and certifications required in the auction application. An applicant that files an application to participate in the 833 Auction will be subject to the prohibition on certain communications, beginning at the deadline for filing auction applications—6:00 p.m. ET on October 18, 2019. The prohibition will end for applicants on the post-auction final payment (with late fee) deadline. Each applicant remains subject to the prohibition until the end of the prohibition period, regardless of whether or not it becomes qualified to bid or actually submits any bids.

61. An applicant bears full responsibility for submitting an accurate, complete, and timely auction application. Each applicant must make a series of certifications under penalty of perjury on its FCC Form 833 related to the information provided in its application and its participation in the auction. If an applicant fails to make the required certifications in its FCC Form 833 by the filing deadline, its application will be deemed unacceptable for filing and cannot be corrected after the filing deadline.

62. An applicant should note that submitting an FCC Form 833 (and any amendments thereto) constitutes a representation by the certifying official that he or she is an authorized representative of the applicant with authority to bind the applicant, that he or she has read the form's instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. Submitting a false certification in an application may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

63. Applicants are cautioned that because the required information submitted in an FCC Form 833 bears on each applicant's qualifications, requests for confidential treatment will not be routinely granted. The Commission has held generally that it may publicly release confidential business information where the party has put that information at issue in a Commission proceeding or where the Commission has identified a compelling public interest in disclosing the information.

64. A party may not submit more than one auction application for the 833 Auction. Similarly, a party can participate in the 833 Auction only through a single bidding entity; either it can participate indirectly through a RespOrg or directly by submitting its own application. As in Commission spectrum auctions, if a party submits multiple auction applications, only one application may be the basis for that party to become qualified to bid in the auction.

65. After the initial auction application filing deadline, Somos staff will review all timely submitted applications for the 833 Auction to determine whether each application complies with the application requirements and whether it has provided all required information concerning the applicant's qualifications for bidding. After this review is completed, Somos, in its capacity as auctioneer, will release a public notice identifying the applications as complete or incomplete, and will establish an application resubmission filing window, during which an applicant may make permissible minor modifications to its application to address identified deficiencies. The public notice will include the deadline for resubmitting modified applications. To become a qualified bidder, an applicant must have a complete application (*i.e.,* have timely corrected any identified deficiencies) and make a timely and sufficient upfront payment. After review of resubmitted applications is complete,

Somos will issue a public notice identifying the applicants that are qualified to bid. Somos should release this notice at least five business days before the bidding (*i.e.,* by December 10, 2019).

66. The *833 Auction Procedures Public Notice* provides additional details regarding certain information required to be submitted in the FCC Form 833. In addition, an applicant should consult the Commission's rules, the *Toll Free Assignment Modernization Order,* and any additional releases specific to the 833 Auction (including instructions on submitting a FCC Form 833 provided by Somos) to ensure that, in addition to the materials described in the *833 Auction Procedures Public Notice,* all required information is included in its auction application. To the extent the information in the *833 Auction Procedures Public Notice* does not address a potential applicant's specific operating structure, or if the applicant needs additional information or guidance concerning the following disclosure requirements, the applicant should review the educational materials for the 833 Auction and/or use the contact information provided in the *833 Auction Procedures Public Notice* to consult with Somos and Commission staff to better understand the information it must submit in its auction application.

B. 833 Auction Number Selection

67. Each 833 Auction applicant must identify in its auction application any toll free number (from the list of available 833 numbers) on which it may wish to place a bid during the auction. Moreover, for each number it selects, the applicant must identify the party (either itself or another party) for which it is bidding.

68. The *833 Auction Comment Public Notice* proposed requiring applicants to select the toll free numbers for which they are interested in bidding and, for each number, identify the party for which it is bidding to allow Somos to verify that a potential subscriber is seeking to bid based on only one application and make it clear to applicants that they can represent only one entity per number, including itself. The Commission received no comments on this proposal. Therefore, based for the reasons set forth in the *833 Auction Comment Public Notice,* the Commission adopts this application requirement.

69. The Commission also adopts its proposal to consider any change made to the numbers selected on an application or the party for which an applicant is bidding to be a major modification of the application, which will result in a dismissal of the application. Finalizing the list of potential toll free numbers and parties for which applicants may be bidding provides certainty in the application review and auction qualification process. Therefore, the Commission requires applicants to select the toll free numbers and identify the party for which it is bidding on its application by the application deadline. If qualified to bid in the auction, the entity will not be obligated to place a bid on each of the numbers selected in its application, but an entity will not be able to bid on any numbers that it does not select in its application. If a particular available toll free number is not selected on any auction application, it will not be available in the auction.

70. Moreover, the Commission directs Somos to withhold from public disclosure the 833 toll free numbers selected by an applicant on its auction application until after the bidding is complete. The Commission received no comments on its proposal in the *833 Auction Comment Public Notice* to make public the name of party (or parties) for which an applicant is bidding once Somos announces which applications are complete or incomplete. The Commission adopts the proposal because, consistent with the practice in Commission spectrum auctions, it finds that competition will be enhanced by withholding certain information, such as toll free number selections, from other applicants, while still providing bidders with information that will allow them to accurately assess the legitimacy of their auction opponents.

C. Ownership Disclosure Requirements

71. Any party interested in participating in the 833 Auction must provide, in its auction application, the same level of ownership disclosure required in Commission spectrum auctions under § 1.2112(a) of the Commission's rules. Thus, each applicant must disclose: (1) The real party or parties in interest of the applicant or of the application; (2) any direct interest holder of 10 percent or greater; (3) any indirect interest holder of 10 percent or greater; and (4) any FCC-regulated entity or applicant for an FCC license in which the applicant, any real party in interest, or any direct interest holder of 10 percent or greater, owns 10 percent or more stock, whether voting or non-voting. An applicant must list all parties holding indirect ownership interests in the applicant as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain that equals 10 percent or more of the applicant, except that if the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated and reported as if it were a 100 percent interest.

72. The *833 Auction Comment Public Notice* proposed using the ownership disclosure rule used in Commission spectrum auctions. One commenter argued that the disclosure requirements of § 1.2112(a) are unnecessary for the 833 Auction. Specifically, 1–800 Contacts argues that the 10 percent disclosure threshold for direct and indirect interest holders may be relevant to commercial wireless service auctions (because of spectrum aggregation limits) or broadcast auctions (because of multiple ownership, cross ownership and foreign ownership), but not toll free number auctions because toll free numbers have no such limits. 1–800 Contacts therefore argues that the proposed disclosure requirement is ''exceedingly burdensome, particularly on prospective auction participants that may be held through complex private investment funds.'' In lieu of such disclosure, 1–800 Contacts proposes that auction applicants certify that they and their attributable interest holders are in compliance with the Commission's auction rules, including the prohibition on certain communications.

73. While 1–800 Contacts is correct that the ownership disclosure requirements of § 1.2112 aid in the Commission's enforcement of certain restrictions, such as ownership limits, 1–800 Contacts fails to account for the fact that the 10 percent reporting requirements provide other benefits to the other auction participants. Responding to similar arguments against ownership disclosure made in the Part 1 competitive bidding proceeding, the Commission stated that the 10 percent reporting requirement ''helps competing bidders accurately assess the legitimacy of their auction opponents and . . . aids bidders by providing them with information about their auction competitors and alerting them to entities subject to [the Commission's] anti-collusion rules.'' Such reasoning applies in the 833 Auction as well. As 1–800 Contacts itself supports the broad application of the prohibition on certain communications, other auction participants rely on the ownership disclosure in auction applications to know with which parties they are prohibited from communicating. Moreover, the Commission disagrees that such disclosure is overly

burdensome. Auction applicants have provided such information in a variety of Commission auctions for over 20 years, and such information provides transparency regarding the identity of auction participants—not only to the Commission, but also to other auction participants and the public generally. Thus, the Commission adopts its proposal in the *833 Auction Comment Public Notice* to require the same level of ownership disclosure required in § 1.2112(a) of the Commission's rules.

D. Disclosure of Agreements and Bidding Arrangements

74. To the extent that an applicant may be a party to an auction-related agreement, it must disclose the agreement on its auction application. Specifically, the *833 Auction Comment Public Notice* proposed to require an applicant to provide in its auction application a brief description of, and identify each party to, any partnerships, joint ventures, consortia or agreements, arrangements, or understandings of any kind relating to the toll free numbers being auctioned, including any agreements that address or communicate directly or indirectly bids (including specific prices), bidding strategies (including the specific licenses on which to bid or not to bid), or the post-auction market structure, to which the applicant, or any party that controls or is controlled by the applicant, is a party. For purposes of this disclosure, a controlling interest includes all individuals or entities with positive or negative de jure or de facto control of the applicant. The Commission received no comments on this proposal. Because disclosure of these arrangements provides transparency about the auction applicants and any parties with whom they have entered into agreements regarding the toll free numbers being offered in the auction, the Commission adopts this disclosure requirement. Additionally, if an applicant in the 833 Auction is a potential subscriber but is also bidding on behalf of another potential subscriber, it would need to disclose the existence of such an agreement. In such circumstances, the applicant would need to briefly describe the agreement, but must not disclose the toll free number(s) for which it is bidding on behalf of the other potential subscriber(s).

75. In connection with the agreement disclosure requirement, the applicant must certify under penalty of perjury in its auction application that it has described, and identified each party to, any such agreements, arrangements, or understandings into which it has entered. An applicant that enters into any agreement relating to the toll free numbers being auctioned after the auction application deadline is subject to the same disclosure obligations it would be for agreements existing at the application deadline, and it must maintain the accuracy and completeness of the information in its pending auction application.

76. For purposes of making the required agreement disclosures on the auction application, if parties agree in principle on all material terms prior to the application filing deadline, the applicant must provide a brief description of, and identify the other party or parties to, the agreement, even if the agreement has not been reduced to writing. However, if the parties have not agreed in principle by the application filing deadline, the applicant should not describe, or include the names of parties to, the discussions on its application.

77. Finally, the Commission sought comment in the *833 Auction Comment Public Notice* on the level of disclosure for auction-related agreements, noting that in its spectrum auctions, an applicant must disclose certain limited information about the agreements in their pre-auction short-form applications (*e.g.,* the parties to the agreement and a brief summary of the agreements), while winning bidders often may be required to provide more detailed information about the agreements in their post-auction long-form applications. The Commission received no comments on this issue. It concludes that, for the 833 Auction, it is sufficient to require applicants to identify the parties and provide a brief description of the agreement because it will provide enough detail to understand the arrangement without being overly burdensome on auction applicants. When identifying the parties to any agreement, and providing a brief description of such, applicants should take care to avoid providing any details that would indicate specific toll free numbers.

E. Authorized Bidders

78. An applicant must designate at least one individual as an authorized bidder, and no more than three, in its auction application. In the Commission's spectrum auctions, the rules prohibit an individual from serving as an authorized bidder for more than one auction applicant. This restriction ensures that a single individual with knowledge of the bidding strategies of more than one applicant cannot become even an unwitting conduit of bidding information between those applicants in violation of the Commission's prohibition on certain communications among auction applicants. The Commission finds that a similar restriction would be serve the integrity of the 833 Auction, and accordingly, it prohibits an individual from serving as an authorized bidder for more than one auction applicant in the 833 Auction.

F. Provisions Regarding Current Defaulters

79. The Commission adopts its proposal in the *Auction 833 Comment Public Notice* to adhere to its practice in Commission spectrum auctions regarding current defaults and delinquencies and to require each applicant in the 833 Auction to certify that it is not currently in default or delinquent on a non-tax debt to the Federal Government. The Commission received no comments on the proposal and takes this step to preserve the integrity of the auction process and to ensure that bidders are capable of meeting their financial commitments. As is the Commission's practice in spectrum auctions, an applicant will be considered a ''current defaulter'' or ''current delinquent'' when it, any of its affiliates, any of its controlling interests, or any of the affiliates of its controlling interests, is in default on any payment for any Commission construction permit or license (including a down payment) or is delinquent on any non-tax debt owed to any Federal agency.

80. Also consistent with Commission spectrum auctions, the applicant's status as a current defaulter will be determined as of the auction application deadline. After the deadline, an applicant can dispute the status of the debt, but as noted in the *833 Auction Comment Pubic Notice* and consistent with the Commission's practice in spectrum auctions, applicants will not be able to cure the default or delinquency after the auction application deadline to participate in the auction. Thus, prospective applicants should pay any delinquent debts prior to the auction application deadline.

81. In addition to the *833 Auction Procedures Public Notice,* applicants are encouraged to review previous guidance on default and delinquency disclosure requirements in the context of the auction application process. Parties are also encouraged to consult with the Somos staff if they have any questions about default and delinquency disclosure requirements.

82. Applicants are encouraged to check the Commission's Red Light Display System for information

regarding debts currently owed to the Commission. To access the Commission's Red Light Display System, go to: *https://apps.fcc.gov/redlight/login.cfm.* The Commission reminds each applicant, however, that its Red Light Display System may not be determinative of an auction applicant's ability to comply with the default and delinquency disclosure requirements (*e.g.,* an applicant may be delinquent on a non-tax debt to another Federal agency). Thus, an auction applicant's lack of current ''red light'' status is not necessarily determinative of its eligibility to participate in the auction. The Commission strongly encourages each applicant to carefully review all records and other available Federal agency databases and information sources to determine whether the applicant, or any of its affiliates, or any of its controlling interests, or any of the affiliates of its controlling interests, owes or was ever delinquent in the payment of non-tax debt owed to any Federal agency.

G. Additional Disclosures and Certifications

83. In the *833 Auction Comment Public Notice,* the Commission sought comment on whether there are other certifications that it should consider requiring auction applicants to make in order to become qualified to bid in the 833 Auction or any legal restrictions that may be relevant. The Commission received no comments and therefore concludes no further certifications are necessary.

H. Modifications to Auction Application

1. Only Minor Modifications Allowed

84. After the initial application filing deadline, an applicant will be permitted to make only minor changes to its application consistent with the *Toll Free Assignment Modernization Order.* Examples of minor changes include the deletion or addition of authorized bidders (to a maximum of three), and the revision of addresses and telephone numbers of the applicant, its responsible party, and its contact person. Major modification to an auction application (*e.g.,* change in toll free number selections, change in the party on whose behalf the applicant will be bidding, certain changes in ownership that would constitute an assignment or transfer of control of the applicant, change in applicant's legal classification that results in a change in control, or change in the required certifications) will not be permitted after the initial auction application filing deadline. If an amendment reporting changes is a ''major amendment,'' the major amendment will not be accepted and may result in the dismissal of the application.

2. Duty To Maintain Accuracy and Completeness of Auction Application

85. The Commission adopts a procedure, consistent with its spectrum auctions, requiring each applicant in the 833 Auction to maintain the accuracy and completeness of information furnished in its pending auction application. For purposes maintaining the accuracy of the information in an auction application and associated attachments, the application remains pending until the release of a public notice announcing the winning bidders. 833 Auction applicants remain subject to the prohibition on certain communications until the post-auction deadline for making final payments (with a late fee) on winning bids. Also, consistent with the requirements for Commission spectrum auctions, an applicant for the 833 Auction must furnish additional or corrected information to Somos within five business days after a significant occurrence, or amend its auction application no more than five business days after the applicant becomes aware of the need for the amendment. An applicant is obligated to amend its pending application(s) even if a reported change may result in the dismissal of the application because it is subsequently determined to be a major modification.

86. An applicant's ability to modify its auction application in the Somos Auction System may be limited at certain times—*e.g.,* between the closing of the initial filing window and the opening of the application resubmission filing window and between the closing of the resubmission filing window and the release of the public notice announcing the qualified bidders. During these periods, an applicant may be able to view its submitted application, but will be unable to make changes. If an applicant needs to make other permissible minor changes to its auction application at any time other than during the resubmission filing window, it must submit a letter briefly summarizing the changes to its auction application via email to *auctionhelp@somos.com.* The email summarizing the changes must include a subject line referring to the 833 Auction and the name of the applicant, for example, ''Re: Changes to 833 Auction Application of XYZ Corp.'' Any attachments to the email must be formatted as Adobe® Acrobat® (PDF) or Microsoft® Word documents. An applicant that submits its changes in this manner must subsequently modify, certify, and submit its auction application(s) electronically in the Somos Auction System once it is available to applicants.

87. As with filing the auction application, any amendment(s) to the application and related statements of fact must be certified by an authorized representative of the applicant with authority to bind the applicant. Applicants should note that submission of any such amendment or related statement of fact constitutes a representation by the person certifying that he or she is an authorized representative with such authority and that the contents of the amendment or statement of fact are true and correct.

88. Questions about amendments to the auction application should be directed to Somos at *auctionhelp@somos.com* or (844) 439–7666.

IV. Preparing for Bidding in the 833 Auction

A. Due Diligence

89. Each applicant has the sole responsibility for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the toll free numbers that it is seeking in the 833 Auction. The Commission makes no representations or warranties about the use of the toll free numbers. Each applicant should be aware that the 833 Auction represents an opportunity to receive the right to use certain toll free numbers and that the Commission's statutory authority to add, modify, and eliminate rules governing numbering applies equally to all toll free numbers, whether acquired through the competitive bidding process or otherwise. In addition, the 833 Auction does not constitute an endorsement by the Commission of any particular service, technology, or product, nor does a right to use the toll free numbers constitute a guarantee of business success.

90. An applicant should perform its due diligence research and analysis before proceeding, as it would with any new business venture. In particular, the Commission strongly encourages each potential applicant to review all underlying Commission orders, including the *Toll Free Assignment Modernization Order.* Each potential applicant should perform due diligence to assure itself that, should it become a winning bidder for the right to use one or more 833 numbers offered in the auction, it will be able to comply with all financial, technical, and legal requirements.

91. The Commission also strongly encourages each applicant for the 833 Auction to continue to conduct its own research throughout the auction in order to determine the existence of pending or future administrative or judicial proceedings that might affect its participation in the auction. Each applicant is responsible for assessing the likelihood of the various possible outcomes and for considering the potential impact on toll free numbers available in the 833 Auction. The due diligence considerations mentioned in the *833 Auction Procedures Public Notice* do not constitute an exhaustive list of steps that should be undertaken prior to participating in the 833 Auction. The burden is on the potential applicant to determine how much research to undertake, depending upon the specific facts and circumstances related to its interests.

92. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third-party databases, including, for example, court docketing systems. To the extent the databases may not include all information deemed necessary or desirable by an applicant, it must obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said database.

93. Applicants are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of toll free numbers available in the 833 Auction. Each potential applicant is responsible for undertaking research to ensure that any rights to use toll free numbers won in this auction will be suitable for its business plans and needs. Each potential applicant must undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts.

B. Bidder Education

94. The Commission directs Somos to provide detailed educational information to would-be participants before the opening of the auction application filing window on October 7, 2019. Specifically, Somos must provide educational materials on the pre-auction processes in advance of the opening of the application window, beginning with the release of step-by-step instructions for completing the auction application. In addition, the Commission directs Somos to provide an online tutorial covering information on application procedures (including pre-auction preparation, completing auction applications, and the application review process) and bidding procedures. The Commission further directs Somos to provide educational materials on the bidding process and an opportunity to practice the bid upload process in advance of the bidding.

C. Registration for Auction ID

95. As a first step in the 833 Auction application process, an interested party must acquire an ''Auction ID'' from Somos, which will verify the potential applicant's identity. Any entity that cannot be verified through the Somos verification process, or is otherwise unable to participate in the auction directly, will have the option to participate in the auction through a RespOrg (*i.e.,* the RespOrg will bid on its behalf and will be responsible for making final payment on any winning bids). The Commission proposed this registration process in the *833 Auction Comment Public Notice* and received no comments on it. This registration procedure is consistent with the need to obtain an FCC Registration Number (FRN) to apply for Commission auctions. Therefore, the Commission adopts the proposal and urges interested parties to allow sufficient time prior to the application deadline to register so that, should any party encounter difficulties in the registration process, it would have time to make arrangements to alternatively participate in the auction through a RespOrg.

D. Auction Application

96. Once Somos verifies an interested party's identity and issues an ''Auction ID'' to it, the entity must then submit an auction application (FCC Form 833) electronically via the Somos Auction System. Applicants must follow the FCC Form 833 instructions that Somos will release before the application window opens. While no application fee will be required, the applicant must submit a sufficient upfront payment to become a qualified bidder.

97. The auction application will become available with the opening of the initial filing window at 12:00 noon ET on October 7, 2019 and must be submitted prior to 6:00 p.m. ET on October 18, 2019. Late applications will not be accepted. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications.

E. Application Processing and Minor Modifications

1. Public Notice of Applicant's Initial Application Status and Opportunity for Minor Modifications

98. After the deadline for filing auction applications, Somos will process all timely submitted applications to determine whether each applicant has complied with the application requirements and provided all information concerning its qualifications for bidding. After review of all the auction applications, Somos will issue a public notice with applicants' initial application status as either complete or incomplete. The public notice will include the deadline for resubmitting corrected applications and a paper copy will be sent to the contact address listed in the auction application for each applicant by overnight delivery. In addition, each applicant with an incomplete application will be sent information on the nature of the deficiencies in its application, along with the name and phone number of a Somos staff member who can answer questions specific to the application.

99. After the initial application filing deadline on October 18, 2019, applicants can make only minor modifications to their applications. Major modifications (*e.g.,* change toll free number selections, change in the party on whose behalf the applicant will be bidding, certain changes in ownership that would constitute an assignment or transfer of control of the applicant, change in applicant's legal classification that results in a change in control, or change in the required certifications) will not be permitted. After the deadline for resubmitting corrected applications, an applicant will have no further opportunity to cure any deficiencies in its application or provide any additional information that may affect the ultimate determination of whether and to what extent the applicant is qualified to participate in the 833 Auction.

100. Somos staff will communicate only with an applicant's contact person or certifying official, as designated on the auction application, unless the applicant's certifying official or contact person notifies Somos staff in writing that another representative is authorized to speak on the applicant's behalf. Authorizations may be sent by email to *auctionhelp@somos.com.*

2. Public Notice of Applicant's Final Application Status After Upfront Payment Deadline

101. After Somos staff review resubmitted applications, Somos will release a public notice identifying applicants that have become qualified bidders for that auction. Qualified bidders are those applicants with submitted auctions applications that are deemed timely filed and complete and who provided a sufficient upfront payment.

F. Upfront Payments

1. Amount of Upfront Payment and Bidding Eligibility

102. Each potential bidder must provide an upfront payment in a specified amount for the maximum number of toll free numbers on which it may wish to submit a bid in the 833 Auction. An upfront payment is a refundable deposit made by each auction applicant to establish its eligibility to bid in the auction. Upfront payments protect against frivolous or insincere bidding and provide a source of funds from which to collect payments owed at the close of bidding.

103. In the *833 Auction Comment Public Notice,* the Commission proposed that potential bidders provide an upfront payment of $100 per number because it wanted to encourage only serious, qualified bidders, while at the same time, not discourage participation in the auction. The Commission received no comments on the upfront payment proposal. It concludes that the proposed upfront payment requirement and the proposed amount per toll free number will achieve the Commission's stated goals, and therefore, adopts the proposal. Moreover, since the 833 Auction will serve as an experiment in using competitive bidding for assigning toll free numbers, the values of the auctioned numbers can help inform the Commission's decisions regarding upfront payment amounts in any future toll free number auctions.

104. The Commission reiterates that, if a bidder's winning bids total less than its upfront payment, any remaining amount will be refunded to the bidder, minus any default payments that the bidder may owe. Similarly, if a bidder does not have any winning bids, it will be reimbursed the entirety of its upfront payment. Moreover, to become a qualified bidder in the 833 Auction, in addition to having a complete auction application, an interested party must submit a sufficient upfront payment. Thus, at a minimum, an applicant must submit $100 (*i.e.,* enough to establish eligibility to bid on at least one toll free number). Failure to deliver a sufficient upfront payment as instructed by the applicable upfront payment deadline will result in dismissal of the auction application and disqualification from participation in the auction.

2. Submitting an Upfront Payment

105. In order to be eligible to bid in the 833 Auction, an applicant must submit a sufficient upfront payment to Somos before 6:00 p.m. ET on November 27, 2019. Each applicant is responsible for ensuring timely submission of its upfront payment.

106. All payments must be made in U.S. dollars.

107. The *833 Auction Comment Public Notice* proposed to require upfront payments of more than $300 be made via wire transfer. Specifically, the Commission proposed that any upfront payment in excess of $300 must be made through a wire transfer to Somos (or its payment designee), and any amounts under this threshold (*i.e.,* $300 or less) can be made using an alternative payment collection process, such as Automated Clearing House (ACH). The Commission received no comments on this proposal or the threshold amount. It finds that the proposed approach will ensure prompt and assured transfer of funds for those who plan to bid on more than three toll free numbers, while the alternative payment process should make it easier for individuals or small entities that are interested in only a few toll free numbers, and therefore adopts its proposals. It also adopts the proposal to exclude payments via check or credit card, as such payment processes have increased risks associated with them, which would not be conducive to a timely auction. Thus, the Commission will require payment by wire transfer for any amount in excess of $300 and allow payment by ACH for $300 or less. Regardless of its payment method, each applicant is responsible for obtaining confirmation from its financial institution that its payment to Somos was successful.

108. *Wire Transfer Payment Information.* If an applicant is providing its upfront payment by wire transfer, it should coordinate with its financial institution well ahead of the due date and allow sufficient time for the transfer to be initiated and completed prior to the deadline. The Commission has repeatedly cautioned auction participants about the importance of planning ahead to prepare for unforeseen last-minute difficulties in making payments by wire transfer. The following information will be needed for wire transfers:

ABA Routing Number: 021000021
Receiving Bank: JP Morgan Chase Bank, 270 Park Avenue, New York, NY 10017
Beneficiary: Somos, Inc., Two Tower Center Boulevard, 20th Floor, East Brunswick, NJ 08816
Account Number: 511665892
Originating Bank Information (OBI field): (skip one space between each information item)

''833 AUCTIONPAY''

Applicant Auction ID Number: (same as FCC Form 833)

Payer Name: (use exact same entity or individual name as used in FCC Form 833)

109. *ACH Payment Information.* If an applicant is providing its upfront payment by ACH, the following information will be needed:

ABA Routing Number: 021000021
Receiving Bank: JP Morgan Chase Bank, 270 Park Avenue, New York, NY 10017
Beneficiary: Somos, Inc., Two Tower Center Boulevard, 20th Floor, East Brunswick, NJ 08816
Account Number: 511665892

G. Bidding via Somos Auction System

110. Bidders will be able to participate in the 833 Auction over the internet using the Somos Auction System. Only qualified bidders are permitted to bid.

111. The Commission and Somos make no warranties whatsoever, and shall not be deemed to have made any warranties, with respect to the Somos Auction System, including any implied warranties of merchantability or fitness for a particular purpose. In no event shall the Commission, Somos, or any of their officers, employees, or agents, be liable for any damages whatsoever (including, but not limited to, loss of business profits, business interruption, loss of use, revenue, or business information, or any other direct, indirect, or consequential damages) arising out of or relating to the existence, furnishing, functioning, or use of the Somos Auction System. Moreover, no obligation or liability will arise out of the technical, programming, or other advice or service provided by Somos or the Commission in connection with the Somos Auction System.

112. To the extent an issue arises with the Somos Auction System itself, the Commission directs Somos to take all appropriate measures to resolve such issues quickly and equitably. Should an issue arise that is outside the Somos Auction System or attributable to a bidder, including, but not limited to, a bidder's hardware, software, or internet

access problem that prevents the bidder from submitting a bid prior to the end of the bidding round, Somos (and the Commission) shall have no obligation to resolve or remediate such an issue on behalf of the bidder. Similarly, if an issue arises due to bidder error using the Somos Auction System, Somos (and the Commission) shall have no obligation to resolve or remediate such an issue on behalf of the bidder. Accordingly, after the close of the bidding round, the results of bid processing will not be altered absent evidence of any failure in the Somos Auction System.

H. Fraud Alert

113. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use the 833 Auction to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is a ''cold call'' from a telemarketer or is made in response to an inquiry prompted by a radio or television infomercial.
- The offering materials used to invest in the venture appear to be targeted at IRA funds, for example, by including all documents and papers needed for the transfer of funds maintained in IRA accounts.
- The amount of investment is less than $25,000.
- The sales representative makes verbal representations that (a) the Internal Revenue Service, Federal Trade Commission (FTC), Securities and Exchange Commission (SEC), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or Federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

114. Information about deceptive telemarketing investment schemes is available from the FCC as well as the FTC and SEC. Additional sources of information for potential bidders and investors may be obtained from the following sources:

- The FCC's Consumer Call Center at (888) 225–5322 or by visiting *https://www.fcc.gov/general/frauds-scams-and-alerts-guides*
- the FTC at (877) FTC–HELP ((877) 382–4357) or by visiting *http://ftc.gov/bcp/edu/pubs/consumer/invest/inv03.shtm*
- the SEC at (202) 942–7040 or by visiting *https://www.sec.gov/investor*

115. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (202) 835–0618.

V. Bidding in the 833 Auction

A. Auction Design

116. The Commission decided in the *Toll Free Assignment Modernization Order* that the 833 Auction will be conducted as a single round, sealed-bid auction. All numbers will be available simultaneously for bidding during the round, with the winning bid for each number determined solely by bids for that number, independent of the bids for any other number. Moreover, the Commission also chose to use a Vickrey auction, in which the amount paid by the winning bidder is determined by the second-highest bid. Therefore, in the 833 Auction, the winning bidder for each 833 number will be the bidder that submits the highest bid and it will pay the second-highest bid amount for that number.

117. In the event that a toll free number receives only one bid, the right to use the toll free number will be awarded to the bidder submitting the sole bid and the bidder will not be required to pay anything to acquire the rights to the toll free number because there was no second-highest bid. The Commission proposed this procedure in the *833 Auction Comment Public Notice* and received no comments on it. Because it is consistent with using a Vickrey auction, the Commission adopts the proposed procedure for any number in the 833 Auction that receives only one bid. The fact that the winning bidder in this scenario will not be required to pay anything to acquire the rights to the toll free number does not relieve the obligation to pay any other fees, including regulatory fees to the Commission.

118. To provide for the possibility of tied bids, the Commission directs Somos to assign a pseudo-random number to each bid for each toll free number submitted to the 833 Auction. In the event that a toll free number receives two or more tied bids for the highest amount, the winning bidder will be the one with the highest pseudo-random number among the bidders that submitted the tied highest bids. The Commission proposed in the *833 Auction Comment Public Notice* using the pseudo-random number to break tied bids and received no comments on it. It also received no comments on the proposal that, in the case of tied bids, the second highest bid amount to be paid by the winning bidder would be the same amount as the winning's placed bid (*i.e.,* the tied bid amount). The Commission finds these adopted procedures consistent with the Vickrey auction design and therefore adopts them as proposed.

B. Auction Structure

1. Bidding Format and Period

119. The format for the 833 Auction will consist of one bidding round. As noted in the *833 Auction Comment Public Notice,* the single round will occur on one day and the Commission anticipates that the round will be open for several hours. The Commission received no comments on the bidding format or bidding period. It directs Somos, in consultation with the Commission, to announce the actual start and finish time of the bidding round at least one week before the start of the auction (*i.e.,* by December 10, 2019). This approach should provide certainty to the bidders, while providing Somos with flexibility to adjust the bidding depending on the number of qualified bidders.

120. In the *833 Auction Comment Public Notice,* the Commission recognized that, because this auction could involve large numbers of bids and the round will be open for several hours, it does not expect that telephone bidding will available in the 833 Auction. The Commission received no comments on this procedure. In the absence of objection and for ease of auction efficiency, the Commission directs Somos to conduct bidding via the internet. While Somos should have telephonic support available to help bidders, the bids must be submitted online. Therefore, bidders are strongly encouraged to formulate back-up contingencies to make sure they can submit their bids online during the bidding round.

2. Information Relating to Auction Delay, Suspension, or Cancellation

121. The Commission adopts the proposal in the *833 Auction Comment Public Notice* that, by public notice or by announcement during the auction, the Commission, or Somos in consultation with the Commission, may delay or suspend the auction in the event of a natural disaster, technical failures, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. In such cases, the Commission directs Somos to consult with Commission staff about resuming, rescheduling, or canceling the auction

in its entirety. If the bidding is delayed or suspended, the Commission may direct Somos to resume the auction starting from the beginning of the scheduled bidding round or for a shorter period, or cancel the auction in its entirety. The Commission will exercise this authority solely at its discretion.

C. Bidding Procedures

1. Bidding Eligibility

122. To be eligible to bid in the 833 Auction, an applicant must submit a sufficient and timely upfront payment. The amount of the applicant's upfront payment will determine its bidding eligibility—*i.e.,* a qualified bidder may submit only the number of bids reflected in its upfront payment. To help illustrate this point: If an applicant were to select 50 numbers on its application but submits an upfront payment of only $1,000, it would be able to place bids on only 10 numbers (based on an upfront payment of $100 per number).

123. If a qualified bidder attempts to place more bids than its bidding eligibility allows, its entire bid submission will be rejected and the bidder will be given a warning and an opportunity to fix its bids and re-submit. Neither Somos nor the Commission, however, are responsible for bids submitted in which the bidder has exceeded its bidding eligibility. Thus, bidders are strongly encouraged submit their bids well before the end of the single round to account for any issues that may arise.

2. Bid Amounts

124. The Commission adopts the proposal in the *833 Auction Comment Public Notice* to allow bids only in whole dollar amounts. The Commission directs Somos to provide more detailed instructions on how qualified bidders should submit bids and an opportunity to practice the bid upload process. Bidders are encouraged to become familiar with the process well in advance of the bidding round.

3. Bid Removal

125. A bidder will have the ability to remove any bid(s) that it has placed before the end of the round. The Commission directs Somos to provide specific instructions on how a bidder may do this. If a bidder removes any bid that it has placed before the end of the round, it will not be considered. Once the single round of bidding closes, a bidder may no longer remove, or otherwise withdraw, any of its bids.

VI. Post-Auction Procedures

A. Public Notice Announcing Winning Bidders

126. In the *Toll Free Assignment Modernization Order,* the Commission stated that, once the bidding concluded, it would release a public notice identifying the winning bidders and establishing the deadline for making final payment for winning bids. The Commission also stated in the *Toll Free Assignment Modernization Order* that the public notice would also explain how unsold inventory will be assigned after the 833 Auction.

127. In the *833 Auction Comment Public Notice,* the Commission included, among the various duties that Somos, as the auctioneer, will perform, the task of announcing the winning bidders. Because Somos will be the entity that will accept and process the bids for the 833 Auction, the Commission reiterates that Somos will announce the winning bids.

128. As for any toll free number offered in the 833 Auction that (i) was not selected on any auction application, (ii) did not receive a bid, or (iii) received one or more bids but the winning bidder defaulted, the Commission will issue a decision on how it will assign such numbers once it reviews the complete results of the 833 Auction. Two commenters advocate, in the case of defaulted bids, that the Commission offer the toll free number to the second highest bidder. The Commission defers until after the auction any decision on how to handle any numbers offered in the 833 Auction with no bid or where the winning bidder defaulted. Once the Commission has all the information available on the 833 Auction experiment, it can better assess how to handle these numbers.

B. Final Payments

129. Each winning bidder must submit the full payment for its winning bid(s) within 10 business days following release of the public notice announcing the winning bidders. Similar to the final payment procedures in Commission spectrum auctions, the Commission will allow a winning bidder to make its final payment within five additional business days after the applicable deadline, provided it also pays a late fee of 5 percent of the winning bid. The Commission also adopts the proposal in the *833 Auction Comment Public Notice* that a winning bidder will declared in default and subject to the applicable default payment if it misses the final payment deadline and also fails to remit the required payment (plus the applicable late fee) by the end of the late payment period.

130. Like upfront payments, final payments must be made in U.S. dollars and will be submitted to Somos. Moreover, the Commission adopts the proposal in the *833 Auction Comment Public Notice* to require final payments in excess of $300 to be made through a wire transfer to Somos (or its payment designee) and any amounts under this threshold (*i.e.,* $300 or less) can be made using ACH. Winning bidders can also use a wire transfer to submit final payments of $300 or less, but also have the option to use ACH. As with allowing ACH for upfront payments below a certain threshold, this alternative payment process should make it easier for individuals or small entities that are the winning bidders for only a few toll free numbers, while ensuring prompt and assured payment of funds for those who had winning bids that exceed the $300 threshold. Moreover, as noted in the *833 Auction Comment Public Notice,* the Commission proposed to specifically exclude payments via check or credit card, as such payment processes have increased risks associated with them, which may not be conducive to a timely post-auction process. For these reasons, the Commission adopts the proposal and only allows winning bidders to use ACH as an alternative to wire transfers for their final payments.

C. Refunds

131. The Commission directs Somos to return any refunds of upfront payments (minus any final payments and any default payments) within 10 business days after the late final payment deadline (*i.e.,* within 25 business days of the public notice announcing winning bidders). All refunds of upfront payment balances will be returned to the payer of record unless the payer submits written authorization to Somos instructing otherwise.

D. Auction Default Payments

132. If a winning bidder fails to make full payment on its bid or otherwise defaults for any reason, it will be subject to a default payment of 35 percent of the defaulted bid. In the *Toll Free Assignment Modernization Order,* the Commission stated that it expected that the procedures for handling defaults be modeled on those used in the Commission's spectrum auctions, but would defer the decision until the pre-auction process. In the *833 Auction Comment Public Notice,* the Commission proposed basing the default payment for the 833 Auction

only on a percentage of the defaulted amount, since the Commission has not yet decided if there will be a subsequent auction of toll free numbers. Specifically, the *833 Auction Comment Public Notice* proposed a default payment of 35 percent of the defaulted bid, noting that the default percentage is higher than in most of Commission spectrum auctions to compensate for the absence of a deficiency portion of the default payment. The Commission received no comments on the proposed default procedures or percentage. Because the proposed procedure should sufficiently discourage insincere bidding and default, the Commission adopts both the proposed default procedure and default percentage. Moreover, if a default involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions and may take any other action that it deems necessary, including forfeiture of their upfront payment and institution of proceedings to revoke any existing FCC authorizations held by the applicant.

E. Reserving Toll Free Numbers/ Declaring a RespOrg

133. Any potential subscriber that directly participates in the 833 Auction and is a winning bidder must work with a RespOrg after the auction to reserve a number in the Toll Free Database in accordance with § 52.101 of the Commission's rules. The Commission adopts the proposal in the *833 Auction Comment Public Notice* to require such declaration within 15 business days after the public notice announcing the winning bidders. If a winning bidder experiences problems working with RespOrgs such that it would be unable through no fault of its own to meet this deadline, it could report the problems to Somos, which will hold the number while these issues are resolved, and request waiver of the 15 business day deadline, consistent with the Commission's existing waiver standard.

F. Secondary Market Considerations

134. The secondary market, allowing the sale of numbers assigned during the 833 Auction, is a key component of the auction and the Commission's overall toll free assignment modernization efforts. As the Commission explained in the *Toll Free Assignment Modernization Order,* a secondary market ''promotes the efficient operation of an auction'' and, consistent with its goal of promoting a market-based approach to toll free number assignment, helps ensure that numbers are assigned to those parties who can most efficiently use them. The Commission thus adopts procedures to allow for a secondary market for those 833 toll free numbers assigned via competitive bidding.

135. To evaluate the operation of this new secondary market, and consistent with the requirement established in the *Toll Free Assignment Modernization Order,* the Commission directs Somos to collect and maintain information on the parties involved in the secondary market transactions and make that information available to the Commission. Based on the proposal in the *833 Auction Comment Public Notice,* and the comments filed in the record, the Commission determines that RespOrgs must submit the information specified below about the parties involved in post-auction secondary market transactions involving their subscribers to Somos within 60 days of the RespOrg's actual knowledge of the transaction. This requirement will be included in Somos's tariff.

136. As an initial matter, the Commission permits parties to acquire and transfer the rights to use all numbers that were assigned via the 833 Auction. Two commenters argue that only 833 numbers that receive multiple bids at auction should be able to be bought and sold in the secondary market. Only one commenter explains the rationale for this argument: CenturyLink claims that the Commission should limit the secondary market in this way because, by allowing every auctioned number to be transferred on the secondary market, the Commission would ''afford[ ] a special status and related reporting requirements to numbers based on competitive interest that was fleeting and not demonstrated at the auction.'' But CenturyLink misunderstands why the Commission chose to liberalize its secondary market rules for numbers assigned at auction in the first place. The Commission created an exception to the secondary market rules for numbers assigned via competitive bidding to ''promote[ ] the efficient operation of an auction'' because it ''allows subscribers to purchase or sell numbers in response to the outcome of the auction, and limits pre-auction costs associated with estimating which—and how many—numbers a bidder may win.'' The proposed limitation would create uncertainty for prospective bidders about whether they will be able to transfer in the secondary market a given number on which they wish to bid and therefore it would frustrate this purpose. The Commission finds no reason to limit the ability of parties to buy and sell numbers in the secondary market beyond what was set forth in the *Toll Free Assignment Modernization Order.*

137. Consistent with the proposal in the *833 Auction Comment Public Notice,* the Commission directs Somos to collect information regarding secondary market transactions. Specifically, the Commission directs Somos to collect contact information of both parties to a transaction including (i) name, (ii) address, (iii) email address, and (iv) phone number. This information will allow the Commission to fully evaluate the operation of the secondary market and will promote certainty and combat fraud in the marketplace by keeping track of change of title, both of which are important components to this toll free number auction experiment. The Commission does not, however, require Somos to collect information on the sale date and price. After reviewing the record, the Commission is persuaded by commenters who argue that subscribers may be hesitant to share sensitive business information such as the sale price, and it is not the Commission's intent with the reporting requirement to impede the robust operation of the secondary market. One commenter contends that the *833 Auction Comment Public Notice,* as it relates to the data collection and reporting obligation, ''leaves some basic definitional problems unresolved.'' This obligation extends to transactions which would violate the Commission's brokering rule but are allowed by the exception for numbers assigned via competitive bidding. Put differently, covered transactions are those which result in the reassignment of an 833 number from one subscriber to another, bypassing the spare pool, which would have violated the Commission's prior first-come, first-served rule.

138. The *Toll Free Assignment Modernization Order* established a requirement that RespOrgs report the required secondary market transaction information to Somos. To implement this requirement and incentivize RespOrgs to provide this information promptly, the *833 Auction Comment Public Notice* proposed that RespOrgs must submit this information to Somos within 60 days of a transaction, against the penalty of denying access to the Toll Free Database until the information is reported, which would be included in the Somos tariff. The Commission adopts this proposal, with the modification based on the record that a RespOrg has 60 days from the time it has actual knowledge of the transaction within which to report the required information. The Commission further

adopts the proposal to allow a RespOrg to withhold service from a subscriber until it receives the necessary information. Finally, the Commission clarifies that, in the case of a transfer of a number that is also accompanied by a change of RespOrg, this obligation only applies to the RespOrg providing service to the purchasing subscriber.

139. The Commission is convinced by RespOrg commenters that they may not have reason to know of a secondary market transaction by one of their subscribers in all instances. To address this concern, the Commission provides RespOrgs 60 days from the date of actual knowledge of a transaction to report the information noted above about the secondary market transaction, rather than 60 days from the date of the transaction itself. This change in when the reporting obligation is triggered will avoid a situation in which a RespOrg is denied access to the Toll Free Database for a transaction of which it is unaware. The Commission nonetheless expects RespOrgs to exercise due diligence in monitoring secondary market transactions involving their subscribers.

140. RespOrg commenters argue that this requirement places too large of a burden on RespOrgs because the penalty for non-reporting is too harsh. The Commission disagrees. The Commission believes that the actual knowledge standard adopted reasonably moderates the penalty; the penalty is not triggered until a RespOrg has actual knowledge of a secondary market transaction for 60 days yet nonetheless fails to meet its obligation to report the transaction. In such a situation, the Commission finds the penalty appropriate, given its interest in tracking and analyzing the secondary market in toll free numbers during this experiment. The Commission also concludes that the actual knowledge standard negates the need for Somos to provide RespOrgs a 30-day cure period prior to imposing the penalty; the cure period was a response to the concern that RespOrgs may not know that a secondary market transaction occurred, which is obviated by the adoption of an actual knowledge standard. Further, the penalty for non-reporting is removed when a RespOrg provides Somos with the necessary transaction information. The Commission declines to go further and place an affirmative obligation on subscribers to report secondary market transaction information to Somos, as some commenters suggest, because such an obligation was not contemplated in the *Toll Free Assignment Modernization Order.* And because the Commission does not find this obligation to be overly burdensome for RespOrgs, it declines to adopt alternative approaches suggested in the record.

VII. Procedural Matters

A. Paperwork Reduction Act

141. This document implements the information collections adopted in the *Toll Free Assignment Modernization Order* and contains additional information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The Commission is currently seeking PRA approval for information collections related to the auction application process and the secondary market. In the present document, and its related information collection, the Commission requires the following information from potential bidders: (1) Applicant contact and other details; (2) direct ownership interests; (3) indirect ownership interests; (4) real parties in interests; (5) FCC-regulated entities or applicants for a FCC license in which the applicant, any real party in interest, or any direct interest holder of 10 percent or greater owns 10 percent or more stock; (7) whether the applicant is bidding on behalf of other entities; (8) disclosure of any allowable bidding arrangements; (9) the toll free numbers on which the applicant wishes to bid; and (10) any other exhibits or documentation the applicant deems necessary to apply to bid in the auction. Without this collected information, neither the Commission nor Somos (on the Commission's behalf) can hold the 833 Auction, nor can potential bidders participate in it.

142. In addition, with respect to post auction secondary market transactions, Somos will collect contact information on the Commission's behalf from parties to secondary market transactions. This information will allow the Commission to fully evaluate the operation of the secondary market, which is an important component to this toll free number auction experiment.

B. Congressional Review Act

143. The Commission will send a copy of the *833 Auction Procedures Public Notice,* including the Supplemental Final Regulatory Flexibility Analysis, in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

C. Supplemental Final Regulatory Flexibility Analysis

144. As required by the Regulatory Flexibility Act of 1980 (RFA), an Initial Regulatory Flexibility Analysis was incorporated in the Notice of Proposed Rulemaking in the *Toll Free Assignment Modernization Order,* 82 FR 47669, Oct. 13, 2017, pursuant to which the 833 Auction will be conducted. A Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) was incorporated in the *833 Auction Comment Public Notice.* The Commission sought written public comments on the Supplemental IRFA. No comments were filed addressing the Supplemental IRFA. A Final Regulatory Flexibility Analysis (FRFA) was also incorporated in the *Toll Free Assignment Modernization Order.* The Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) in the *833 Auction Procedures Public Notice* supplements the FRFA to reflect the actions taken in the *833 Auction Procedures Public Notice* and conforms to the RFA.

145. *Need for, and Objectives of, the Public Notice.* The *833 Auction Procedures Public Notice* implements the auction procedures to be used by the Commission and Somos for competitive bidding in the 833 Auction for certain toll free numbers in the 833 code. The procedures adopted for the 833 Auction seek to balance three goals: (1) Promoting competition in the auction; (2) avoiding undue burdens on the applicants; and (3) assigning the 833 toll free numbers as expeditiously as possible. Moreover, the *833 Auction Procedures Public Notice* provides an overview of the procedures, auction dates and deadlines, requirements for participants, terms and conditions governing the 833 Auction and the post-auction requirements and payment processes.

146. To promote an efficient and fair administration of the competitive bidding process that will benefit all 833 Auction participants, including small entities, the Commission adopts the following procedures:

- Allow potential subscribers to participate in the 833 Auction either through a RespOrg that will bid on all the numbers in which the subscriber is interested in acquiring, or by submitting its own application and bidding for all the numbers in which it is interested;
- require each applicant in the 833 Auction to certify that (1) if it is bidding on its own behalf, it is also not participating in the auction through another entity and/or, if it is bidding on behalf of potential subscribers that it is not aware that the potential subscriber(s) are participating through another applicant; and (2) it, or any commonly-controlled entity, is not submitting multiple applications in the 833 Auction, utilizing the Commission's definitions for control adopted for

similar purposes in its spectrum auctions;

• prohibit each applicant in the 833 Auction from cooperating or collaborating with any other applicant with respect to its own, or one another's, or any other competing applicant's bids or bidding strategies, and will be prohibited from communicating with any other applicant in any manner the substance of its own, or one another's, or any other competing applicant's bids or bidding strategies (including the post-auction market for toll free numbers);

• prohibit certain agreements between applicants (whether the applicants are RespOrgs or potential subscribers) in the 833 Auction, and certain auction-related agreements among RespOrgs even where only one of the RespOrgs is an applicant in the 833 Auction;

• require any applicant RespOrg that bids for a potential subscriber to acquire a letter of authorization from the potential subscriber;

• require applicants to first acquire an ''Auction ID'' from Somos, which will verify the potential applicant's identity, and if any entity cannot be verified through the Somos verification process, it must then participate through a RespOrg;

• require each applicant, on its auction application, (1) identify each number on which it wishes to be able to bid and, for each number, the party (either itself or another entity) for which it is bidding, (2) provide the same level of ownership disclosure required in Commission auctions, (3) disclose any auction-related agreement, and (4) certify that it is not currently in default or delinquent on a non-tax debt to the Federal Government;

• for determining the winning bidder on tied bids for a toll free number, use a pseudorandom number assigned to each bid, and for only one bid received for a toll free number, assign the sole bidder the number and require no payment;

• conduct the 833 Auction using procedures for limited information disclosure;

• require potential bidders provide an upfront payment of $100 per number, and treat all funds that a RespOrg submits as an upfront payment in the auction (regardless of whether the funds came from the RespOrg or a potential subscriber for which the RespOrg is bidding) as the upfront payment of the RespOrg that will be used to offset the final payment obligation for any winning bids of the RespOrg;

• establish a default payment of 35 percent of the defaulted bid;

• require full payment within 10 business days following release of the public notice of the winning bids, or full payment plus a 5 percent late fee, within five additional business days;

• require any potential subscriber that directly participates in the 833 Auction and is a winning bidder to declare its intent to work with a specific RespOrg within 15 business days following release of the public notice of winning bids; and

• require Somos to collect additional information on secondary markets and require RespOrgs submit all required data about post-auction secondary market transactions within 60 days of the RespOrg's knowledge of a transaction.

147. *Summary of Significant Issues Raised by Public Comments in Response to Supplemental IRFA.* There were no comments filed that addressed the procedures and policies proposed in the Supplemental IRFA.

148. *Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration.* Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comment filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) and to provide a detailed statement of any change made to the proposed procedures as a result of those comments. The Chief Counsel did not file any comments in response to the proposed procedures in the *833 Auction Comment Public Notice.*

149. *Description and Estimate of the Number of Small Entities to Which the Procedures Will Apply.* The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the procedures adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.''

150. As noted above, FRFA was incorporated in the *Toll Free Assignment Modernization Order.* In that analysis, the Commission described in detail the small entities that might be significantly affected. In the *833 Auction Procedures Public Notice,* the Commission incorporates by reference the descriptions and estimates of the number of small entities from the previous FRFA in the *Toll Free Assignment Modernization Order* in WC Docket No. 17–192.

151. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.* The Commission designed the auction application process itself to minimize reporting and compliance requirements for applicants, including small business applicants. Parties desiring to participate in the 833 Auction must file an application in which they certify under penalty of perjury as to their qualifications. Eligibility to participate in bidding is based on an applicant's auction application and certifications, as well as its upfront payment. The Commission decided in the *Toll Free Assignment Modernization Order* that it will not require applicants to submit a long-form application after the conclusion of the 833 Auction, given the lack of need to verify winning bidders' qualifications in this context and to limit the administrative burden on bidders, including small business entities.

152. The *833 Auction Procedures Public Notice* provides instructions for each 833 Auction applicant to maintain the accuracy of its respective auction application electronically using the Somos Auction System and/or by direct communication with Somos. More specifically, small entities and other 833 Auction applicants will be qualified to bid in the auction only if they comply with the following: (1) Submission of an auction application (FCC Form 833) that is timely and is found to be substantially complete; and (2) timely submission of a sufficient upfront payment. An applicant whose application is found to contain deficiencies will have a limited opportunity during a resubmission window to bring its application into compliance with procedures set forth in the *833 Auction Procedures Public Notice.*

153. In the second phase of the process, there are additional compliance requirements for winning bidders. As with other winning bidders, any small entity that is a winning bidder will be required to submit the full payment for its winning bid(s) within 10 business days following release of the public notice announcing the winning bidders, or within 15 business days following release of the public notice announcing the winning bidders provided it also pays a late fee of 5 percent of the winning bid.

154. *Steps Taken to Minimize the Significant Economic Impact on Small*

Entities, and Significant Alternatives Considered. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

155. The Commission believes that the steps described below to facilitate participation in 833 Auction will result in both operational and administrative cost savings for small entities and other auction participants. For example, assigning toll free numbers through competitive bidding will benefit smaller entities rather than the prior first-come first-served basis which favored larger, more sophisticated entities that had invested in obtaining enhanced connectivity to the Toll Free Database. Moreover, the Commission also elected to allow potential subscribers, many of which are smaller entities, the choice between participating directly in the auction or indirectly through a RespOrg. In addition, the Commission created an alternative payment mechanism that will be available for both upfront and final payments, in which applicants can submit payments via ACH instead of wire transfer if the payments are below a $300 threshold. The Commission believes such measures will benefit small entities, who may be interested in only acquiring one or perhaps a few toll free numbers.

156. The procedures adopted in the *833 Auction Procedures Public Notice* to facilitate participation in the 833 Auction will result in both operational and administrative cost savings for small entities and other auction participants. In light of the numerous resources that will be available from the Commission and Somos at no cost, the processes and procedures adopted in the *833 Auction Procedures Public Notice* should result in minimal economic impact on small entities. For example, prior to the auction, small entities and other auction participants may seek clarification of or guidance on complying with application procedures, reporting requirements, and the bidding system. Small entities as well as other auction participants will be able to avail themselves of (1) a web-based, interactive online tutorial to familiarize themselves with auction procedures, filing requirements, bidding procedures, and other matters related to the 833 Auction and (2) a telephone hotline to assist with issues such as access to or navigation within the auction application system. The Commission and Somos also make copies of Commission decisions available to the public without charge, providing a low-cost mechanism for small businesses to conduct research prior to and throughout the auction. In addition, Somos will post public notices on its website, making this information easily accessible and without charge to benefit all 833 Auction applicants, including small businesses. These steps are made available to facilitate participation in the 833 Auction by all eligible bidders and may result in significant cost savings for small business entities who utilize these alternatives. Moreover, the adoption of bidding procedures in advance of the auctions is designed to ensure that the 833 Auction will be administered predictably and fairly for all participants, including small businesses.

157. The Commission will send a copy of the *833 Auction Procedures Public Notice,* including the Supplemental FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *833 Auction Procedures Public Notice* (or summary thereof) will also be published in the **Federal Register**.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2019–20526 Filed 9–25–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 208, 212, 213, 215, 216, 217, 234, and 237

[Docket DARS–2018–0055]

RIN 0750–AJ74

Defense Federal Acquisition Regulation Supplement: Restrictions on Use of Lowest Price Technically Acceptable Source Selection Process (DFARS Case 2018–D010)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement sections of the National Defense Authorization Acts for Fiscal Years 2017 and 2018 that establish limitations and prohibitions on the use of the lowest price technically acceptable source selection process.

DATES: Effective October 1, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Moore, telephone 571–372–6093.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 83 FR 62550 on December 4, 2018, to implement the limitations and prohibitions on use of the lowest price technically acceptable (LPTA) source selection process provided in sections 813, 814, and 892 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328) and sections 822, 832, 882, and 1002 of the NDAA for FY 2018 (Pub. L. 115–91). Sixteen respondents submitted public comments in response to the proposed rule.

II. Discussion and Analysis

DoD reviewed the public comments in the development of the final rule. A discussion of the comments is provided as follows:

A. Significant Changes as a Result of Public Comments

No changes from the proposed rule are made in the final rule as a result of the public comments received.

B. Analysis of Public Comments

1. Support for the Rule

Comment: Several respondents express support for the rule.

Response: DoD acknowledges support for the rule.

2. General Comments

Comment: A respondent expresses concern that the rule will be interpreted as a complete prohibition on the use of the LPTA source selection process. The respondent recommends revising the rule to clarify that use of the process is acceptable and expand on the circumstances in which it is or is not appropriate for use in acquisitions.

Response: It is not the intent of the rule to prohibit the use of the LPTA source selection process. The LPTA source selection process is a valuable part of the best value continuum and an acceptable and appropriate source selection approach for many acquisitions. Instead, the intent of the

rule is to implement the statutory language, which aims to identify meaningful circumstances that must exist for an acquisition to use the LPTA source selection process and certain types of requirements that will regularly benefit from the use of tradeoff source selection procedures. If a requirement satisfies the limitations for use of the LPTA source selection process, then the process may be used as a source selection approach. Supplemental information to contracting officers on when and from whom to seek additional guidance on whether a requirement satisfies the limitations at 215.101–2–70(a)(1) will be published in the DFARS Procedures, Guidance, and Information (PGI) in conjunction with this final rule.

Comment: One respondent expresses concern about how the agencies using fully automated systems to award contracts are going to implement this rule.

Response: Each Department or agency is required to implement the requirements of this final rule in its acquisition business processes and procedures.

Comment: One respondent expresses support for additional training and guidance that will assist acquisition personnel in making best value decisions.

Response: Training is readily available to DoD personnel on a variety of acquisition topics, including best value decisions. Upon publication of the final rule, the DFARS PGI will be updated to provide contracting officers with information on when and from whom to seek additional guidance when acquiring supplies and services that are impacted by this rule.

3. Expansion of the Applicability of the Rule

Comment: Some respondents recommend applying greater restrictions on the types of acquisitions that can use the LPTA source selection process. For example, a respondent suggests revising this rule to only authorize the use of the LPTA source selection process when acquiring goods that are predominantly expendable in nature, non-technical, or have a short shelf life or life expectancy. Another respondent suggests limiting the use of the LPTA source selection process to only commercial and commercial-off-the-shelf items valued at or below the simplified acquisition threshold, while expressly prohibiting its use for all other requirements.

Response: To ensure that DoD is not denied the benefit of cost and technical tradeoffs in the source selection process, the rule identifies meaningful circumstances that must exist for an individual requirement to use the LPTA source selection process. Each requirement has a unique set of circumstances that should be considered when developing a source selection approach. The LPTA source selection process is a valuable part of the best value continuum and can be used to facilitate an effective and competitive acquisition approach, depending on the circumstances of the acquisition. Limiting the use of the LPTA source selection process to only goods, commercial items under a specific dollar threshold, or other broadly defined groupings does not fully consider the circumstances of an individual requirement and could result in additional and unnecessary time and cost burdens for both Government and industry.

4. Limitation Criteria at 215.101–2–70(a)(1)

a. Application of Criteria

Comment: Some respondents recommend revising the rule to clarify whether each limitation listed at 215.101–2–70(a)(1) applies to supplies, services, or both supplies and services. In particular, a respondent suggests that the rule text be clarified to ensure that the limitations at 215.101–2–70(a)(i) through (iv) are applied to both supplies and services. The respondent also suggests restructuring the rule text by dividing the limitations into two paragraphs: One paragraph that identifies the limitations that apply to the acquisition of supplies, and one that identifies the limitations that apply to the acquisition of services. In contrast, another respondent expresses support for retaining the existing structure of the rule.

Response: The statutory language being implemented by the rule does not categorize the limitations into those that apply to supplies or services. As a result, the list of limitations at 215.101–2–70(a)(1)(i) through (viii) is written to apply to any acquisition that utilizes the LPTA source selection process. In consideration of these limitations, the contracting officer must document the contract file with a description of the circumstances that justify the use of the LPTA source selection process.

One exception is the limitation at 215.101–2–70(a)(1)(vi), which implements paragraph (a)(3) of section 822 of the NDAA for FY 2018 that states the limitation is ''with respect to a contract for the procurement of goods;'' as such, this rule specifically identifies that goods must meet this limitation.

b. Additional Criteria

Comment: Some respondents suggest that additional criteria be added to the list of limitations in order to satisfy Congressional intent. Specifically, one respondent suggests that ''non-complex'' be added to the additional criteria for goods at 215.101–2–70(a)(1)(vi). The respondent also suggests adding another factor to the list that expressly limits the use of LPTA source selection procedures to procurements where the risk of unsuccessful performance is minimal.

Response: The intent of this rule is to implement the statutory language, which does not include ''non-complex'' as a criteria to meet when purchasing goods, or a limitation on acceptable performance risk, when using the LPTA source selection process. Comprehensively, the consideration of each limitation at 215.101–2–70(a)(1) provides an effective evaluation of a requirement's suitability to use of the LPTA source selection process and reflects the intent of the statutory language; therefore, no additional limitation criteria are included in this final rule.

c. Clarification of Terms

Comment: Some respondents indicate that the terms used in the rule are unclear. Specifically, one respondent suggests modifying paragraph 215.101–2–70(a)(1)(ii) to expressly state that ''value'' includes both qualitative and quantitative value to be realized by DoD. Another respondent advises that it is unclear what ''full life-cycle costs'' means when acquiring services.

Response: Supplemental guidance will be published in DFARS PGI in conjunction with this final rule to assist contracting officers in documenting the contract file with a determination that the lowest price reflects full life-cycle costs. The term ''value'' includes monetary and non-monetary benefits, as applicable to the requirement. The term also considers whether DoD is willing to pay more than a minimum price in return for non-monetary benefits (*e.g.,* greater functionality, higher performance, or lower performance risk). The rule does not place any limitations on the meaning of the term.

d. Documentation of Justification

Comment: A respondent expresses concern that this rule requires a written justification when using the LPTA source selection process. As acquisition planning already requires the contracting officer to document the acquisition process and the rationale behind the decision to use one process

or method over another, the respondent views the documentation required by this rule to be unnecessary. In contrast, another respondent suggests that this rule expand the documentation requirement to include a description and analysis of the all the requirements at 215.101–2–70(a)(1) in order to justify the use of the LPTA source selection process and require the justification to be posted with the solicitation.

Response: This rule implements statutory language that requires a contracting officer document the contract file with the circumstances justifying the use of the LPTA source selection process. The rule does not specify a format or method to be used to meet this statutory requirement. The appropriate format of the justification and the method of incorporation into the contract file is left to the discretion of each Department or agency. When developing a source selection approach, acquisition personnel consider the unique circumstances of a requirement and determine the method that will result in the best value to DoD. Publicizing the justification with the solicitation is not required by statute and could result in increased cost and time burden to both Government and industry.

5. List of Services and Supplies at 215.101–2–70(a)(2)

Comment: A respondent suggests that the rule specify how a contracting officer determines that a procurement is predominately for a specific category of service.

Response: For solicitation and reporting purposes, contracting officers assign each acquisition a product or service code that best represents the predominant dollar amount of supplies or services being procured on an award. This code will determine whether the acquisition is subject to the limitations at 215.101–2–70(a)(2).

Comment: A respondent recommends that the list include services directly related to national security, in order to implement the intent of Congress.

Response: The intent of this rule is to implement the requisite statutory language, which does not include ''services directly related to national security'' in the list of service categories that must avoid using the LPTA source selection process, to the maximum extent practicable; as such, the rule text does not include such services in 215.101–2–70(a)(2)(i).

Comment: A respondent suggests that the list of services at 215.101–2–70(a)(2)(i) expressly include advisory and assistance services, as the term ''knowledge-based professional services'' may be misinterpreted to not include advisory and assistance services.

Response: The intent of this rule is to implement the requisite statutory language, which does not explicitly include advisory and assistance services; therefore, the rule text does not identify advisory and assistance services in 215.101–2–70(a)(2)(1).

Comment: Section 880(c) of the NDAA for FY 2019 restricts civilian agencies from using the LPTA source selection process for procurements that are predominately for the same services listed at 215.101–2–70(a)(2)(i), and also includes ''health care services and records'' and ''telecommunication devices and services'' to the list. To harmonize the requirements between the FAR and the DFARS or comply with statute, a couple of respondents suggest the rule incorporate the two additional categories from section 880(c) into the restrictions at 215–101–2–70(a)(2).

Response: The intent of this rule is to implement the statutes at sections 813, 814, and 892 of the NDAA for FY 2017, and sections 822, 832, 882, and 1002 of the NDAA for FY 2018. Section 880 of the NDAA for FY 2019 is being implemented via FAR case 2018–016, Lowest Price Technically Acceptable Source Selection Process, and does not apply to DoD.

6. Suggestion for Technical Edit

Comment: One respondent suggests that the two sentences regarding audit services at 215.101–2–70(b)(3) be reversed to state the prohibition upfront and follow with how award decisions shall be made for such services.

Response: The primary intent of the text, as arranged, is to address the action a contracting officer shall take when awarding an auditing contract; therefore, no change is made to the final rule.

C. Other Changes

An editorial change was made to the rule to update the reference at 213.106–1(a)(2)(ii) from 215.101–70 to 215.101–2–70.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule does not create any new DFARS clauses or amend any existing DFARS clauses.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This final rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

VI. Regulatory Flexibility Act

This rule primarily affects the internal Government procedures, including requirements determination and acquisition strategy decisions, and contract file documentation requirements. However, a final regulatory flexibility analysis (FRFA) has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement sections of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328) and the NDAA for FY 2018 (Pub. L. 115–91). These sections establish a preference for the use of the tradeoff source selection process for certain safety items and auditing services; prohibit the use of reverse auctions or the lowest price technically acceptable (LPTA) source selection process for specific supplies and services; and specify criteria for the use of the LPTA source selection process.

No public comments were received in response to the initial regulatory flexibility analysis.

DoD does not have information on the total number of solicitations issued on an annual basis that specified the use of the LPTA source selection process, or the number or description of small entities that are impacted by certain solicitations. However, the Federal Procurement Data System (FPDS) provides the following information for fiscal year 2016:

DoD competitive contracts using FAR part 15 procedures. DoD awarded 18,361 new contracts and orders using competitive negotiated procedures, of

which 47% were awarded to 5,221 unique small business entities. It is important to note that FPDS does not collect data on the source selection process used for a solicitation. Therefore, this data includes competitive solicitations using LPTA or tradeoff source selection processes, which will be subject to future considerations and restrictions provided by section 813 of the NDAA for FY 2017 and section 822 of the NDAA for FY 2018.

Personal protective equipment. DoD competitively awarded 9,130 new contracts and orders potentially for combat-related personal protective equipment items that could be impacted by restrictions in section 814 of the NDAA for FY 2017. Of those new contracts and orders, 89% were awarded to 668 unique small business entities.

Aviation critical safety items. As discussed during the rulemaking process for DFARS clause 252.209–7010 published in the **Federal Register** at 76 FR 14641 on March 17, 2011, the identification of aviation critical safety items occurs entirely outside of the procurement process and is not captured in FPDS. Therefore, it is not possible for DoD to assess the impact of section 814 of the NDAA for FY 2017, as amended by 822 of the NDAA for FY 2018 on small business entities.

Audit-related services. DoD competitively awarded 46 new contracts and orders for audit services that could be impacted by section 1002 of the NDAA for FY 2018. Of those new contracts and orders, 61% were awarded to 17 unique small business entities.

Major defense acquisition programs (MDAPs). The impact to small businesses resulting from implementation of sections 832 and 882 of the NDAA for FY 2018 cannot be assessed, since FPDS does not collect data for MDAPs or specific acquisition phases (*i.e.,* engineering and manufacturing development (EMD)). Subject matter experts within DoD know of no instances where the LPTA source selection process has been used for procurement of EMD of an MDAP.

This rule does not include any new reporting, recordkeeping, or other compliance requirements.

This rule implements the statutory requirements, as written. There are no known alternative approaches to the rule that would meet the stated objectives of the applicable statutes.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 208, 212, 213, 215, 216, 217, 234, and 237

Government procurement.

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 208, 212, 213, 215, 216, 217, 234, and 237 are amended as follows:

■ 1. The authority citation for 48 CFR parts 208, 212, 213, 215, 216, 217, 234, and 237 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 208—REQUIRED SOURCES OF SUPPLIES OR SERVICES

■ 2. Amend section 208.405 by redesignating the text as paragraph (1) and adding paragraphs (2) and (3) to read as follows:

208.405 Ordering procedures for Federal Supply Schedules.

* * * * *

(2) See 215.101–2–70 for the limitations and prohibitions on the use of the lowest price technically acceptable source selection process, which are applicable to orders placed under Federal Supply Schedules.

(3) See 217.7801 for the prohibition on the use of reverse auctions for personal protective equipment and aviation critical safety items.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 3. Add section 212.203 to subpart 212.2 to read as follows:

212.203 Procedures for solicitation, evaluation, and award.

(1) See 215.101–2–70 for the limitations and prohibitions on the use of the lowest price technically acceptable source selection process, which are applicable to the acquisition of commercial items.

(2) See 217.7801 for the prohibition on the use of reverse auctions for personal protective equipment and aviation critical safety items.

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

■ 4. Revise section 213.106–1 to read as follows:

213.106–1 Soliciting competition.

(a) *Considerations.*

(2)(i) Include an evaluation factor regarding supply chain risk (see subpart 239.73) when acquiring information technology, whether as a service or as a supply, that is a covered system, is a part of a covered system, or is in support of a covered system, as defined in 239.7301.

(ii) See 215.101–2–70 for limitations and prohibitions on the use of the lowest price technically acceptable source selection process, which are applicable to simplified acquisitions.

(iii) See 217.7801 for the prohibition on the use of reverse auctions for personal protective equipment and aviation critical safety items.

PART 215—CONTRACTING BY NEGOTIATION

■ 5. Add section 215.101–2 heading to read as follows:

215.101–2 Lowest price technically acceptable source selection process.

■ 6. Add section 215.101–2–70 to read as follows:

215.101–2–70 Limitations and prohibitions.

The following limitations and prohibitions apply when considering the use of the lowest price technically acceptable source selection procedures.

(a) *Limitations.*

(1) In accordance with section 813 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328) as amended by section 822 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115–91) (see 10 U.S.C. 2305 note), the lowest price technically acceptable source selection process shall only be used when—

(i) Minimum requirements can be described clearly and comprehensively and expressed in terms of performance objectives, measures, and standards that will be used to determine the acceptability of offers;

(ii) No, or minimal, value will be realized from a proposal that exceeds the minimum technical or performance requirements;

(iii) The proposed technical approaches will require no, or minimal, subjective judgment by the source selection authority as to the desirability of one offeror's proposal versus a competing proposal;

(iv) The source selection authority has a high degree of confidence that reviewing the technical proposals of all offerors would not result in the identification of characteristics that could provide value or benefit;

(v) No, or minimal, additional innovation or future technological

advantage will be realized by using a different source selection process;

(vi) Goods to be procured are predominantly expendable in nature, are nontechnical, or have a short life expectancy or short shelf life (See PGI 215.101–2–70(a)(1)(vi) for assistance with evaluating whether a requirement satisfies this limitation);

(vii) The contract file contains a determination that the lowest price reflects full life-cycle costs (as defined at FAR 7.101) of the product(s) or service(s) being acquired (see PGI 215.101–2–70(a)(1)(vii) for information on obtaining this determination); and

(viii) The contracting officer documents the contract file describing the circumstances justifying the use of the lowest price technically acceptable source selection process.

(2) In accordance with section 813 of the National Defense Authorization Act for Fiscal Year 2017, as amended by section 822 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115–91) (see 10 U.S.C. 2305 note), contracting officers shall avoid, to the maximum extent practicable, using the lowest price technically acceptable source selection process in the case of a procurement that is predominately for the acquisition of—

(i) Information technology services, cybersecurity services, systems engineering and technical assistance services, advanced electronic testing, or other knowledge-based professional services;

(ii) Items designated by the requiring activity as personal protective equipment (except see paragraph (b)(1) of this section); or

(iii) Services designated by the requiring activity as knowledge-based training or logistics services in contingency operations or other operations outside the United States, including in Afghanistan or Iraq.

(b) *Prohibitions.*

(1) In accordance with section 814 of the National Defense Authorization Act for Fiscal Year 2017 as amended by section 882 of the National Defense Authorization Act for Fiscal Year 2018 (see 10 U.S.C. 2302 note), contracting officers shall not use the lowest price technically acceptable source selection process to procure items designated by the requiring activity as personal protective equipment or an aviation critical safety item, when the requiring activity advises the contracting officer that the level of quality or failure of the equipment or item could result in combat casualties. See 252.209–7010 for the definition and identification of critical safety items.

(2) In accordance with section 832 of the National Defense Authorization Act for Fiscal Year 2018 (see 10 U.S.C. 2442 note), contracting officers shall not use the lowest price technically acceptable source selection process to acquire engineering and manufacturing development for a major defense acquisition program for which budgetary authority is requested beginning in fiscal year 2019.

(3) Contracting officers shall make award decisions based on best value factors and criteria, as determined by the resource sponsor (in accordance with agency procedures), for an auditing contract. The use of the lowest price technically acceptable source selection process is prohibited (10 U.S.C. 254b).

PART 216—TYPES OF CONTRACTS

■ 7. Amend section 216.505 by—

■ a. Removing paragraphs (1) and (2);

■ b. Adding paragraph (a);

■ c. Adding a paragraph (b) heading: and

■ d. Adding paragraph (b)(1).

The additions read as follows:

216.505 Ordering.

(a) *General.*

(6) Orders placed under indefinite-delivery contracts may be issued on DD Form 1155, Order for Supplies or Services.

(S–70) Departments and agencies shall comply with the review, approval, and reporting requirements established in accordance with subpart 217.7 when placing orders under non-DoD contracts in amounts exceeding the simplified acquisition threshold.

(b) *Orders under multiple-award contracts.*

(1) *Fair opportunity.*

(A) See 215.101–2–70 for the limitations and prohibitions on the use of the lowest price technically acceptable source selection process, which are applicable to orders placed against multiple award indefinite delivery contracts.

(B) See 217.7801 for the prohibition on the use of reverse auctions for personal protective equipment and aviation critical safety items.

* * * * *

PART 217—SPECIAL CONTRACTING METHODS

■ 8. Add new subpart 217.78 to read as follows:

217.78—REVERSE AUCTIONS

Sec.
217.7801 Prohibition.

217.78—REVERSE AUCTIONS

217.7801 Prohibition.

In accordance with section 814 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328) as amended by section 882 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115–91) (see 10 U.S.C. 2302 note), contracting officers shall not use reverse auctions when procuring items designated by the requiring activity as personal protective equipment or an aviation critical safety item, when the requiring activity advises the contracting officer that the level of quality or failure of the equipment or item could result in combat casualties. See 252.209–7010 for the definition and identification of critical safety items.

PART 234—MAJOR SYSTEM ACQUISITION

■ 9. Add section 234.005–2 to read as follows:

234.005–2 Mission-oriented solicitation.

See 215.101–2–70(b)(2) for the prohibition on the use of the lowest price technically acceptable source selection process for engineering and manufacturing development of a major defense acquisition program for which budgetary authority is requested beginning in fiscal year 2019.

PART 237—SERVICE CONTRACTING

■ 10. Amend section 237.270 by–

■ a. Redesignating paragraph (a)(2) as paragraph (a)(3); and

■ b. Adding new paragraph (a)(2) to read as follows:

237.270 Acquisition of audit services.

(a) * * *

(2) See 215.101–2–70(b)(3) for the prohibition on the use of the lowest price technically acceptable source selection process when acquiring audit services.

* * * * *

[FR Doc. 2019–20557 Filed 9–25–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 180713633–9174–02]

RIN 0648–XY038

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Greater Than or Equal to 60 Feet Length Overall Using Pot Gear in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels greater than or equal to 60 feet (18.3 meters (m)) length overall (LOA) using pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2019 Pacific cod total allowable catch allocated to catcher vessels greater than or equal to 60 feet (18.3m) LOA using pot gear in the BSAI.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), September 21, 2019, through 2400 hours, A.l.t., December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2019 Pacific cod total allowable catch (TAC) allocated to catcher vessels greater than or equal to 60 feet (18.3m) LOA using pot gear in the BSAI is 13,499 metric tons (mt) as established by the final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2019 Pacific cod TAC allocated as a directed fishing allowance to catcher vessels greater than or equal to 60 feet (18.3m) LOA using pot gear in the BSAI will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels greater than or equal to 60 feet (18.3m) LOA using pot gear in the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for Pacific cod by catcher vessels greater than or equal to 60 feet (18.3m) LOA using pot gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 18, 2019.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1901 *et seq.*

Dated: September 20, 2019.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019–20867 Filed 9–20–19; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

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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.

OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2635

RIN 3209–AA50

Announcement of public meeting: Legal Expense Fund Regulation

AGENCY: Office of Government Ethics (OGE).

ACTION: Announcement of public meeting.

SUMMARY: The U.S. Office of Government Ethics (OGE) is hosting public meetings to engage in dialogue with interested members of the public regarding the development of a legal expense fund regulation. OGE will also accept additional written comments related to legal expense funds.

DATES: *Written Comment Period Dates:* Written comments must be received by November 5, 2019. Information on how to submit a written comment may be found in the **SUPPLEMENTARY INFORMATION** section of this notice.

Public Meeting Dates: The public meetings will be held on the following dates:

- October 17, 2019, from 10:00 a.m. to 12:00 p.m., Eastern time.
- October 22, 2019, from 10:00 a.m. to 12:00 p.m., Eastern time.

Information on how to register for the public meetings and registration deadlines may be found in the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: The two public meetings will be held at the Office of Government Ethics, 1201 New York Avenue NW, Washington, DC 20005–3917. A call-in number will be provided upon request.

FOR FURTHER INFORMATION CONTACT: Rachel McRae, Associate Counsel, General Counsel and Legal Policy Division, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005–3917; Telephone: (202) 482–9300; TTY: (800) 877–8339; FAX: (202) 482–9237.

SUPPLEMENTARY INFORMATION: The U.S. Office of Government Ethics (OGE) is hosting public meetings to obtain the views of experts and interested parties regarding the development of a legal expense fund regulation. On April 15, 2019, OGE sought stakeholder input on issues specifically related to legal expense funds through an advance notice of proposed rulemaking (ANPRM). *See* Notice and Request for Comments: Legal Expense Fund Regulation, 84 FR 14146 (Apr. 15, 2019). In response to this ANPRM, OGE received written comments and heard testimony at a virtual public hearing on May 22, 2019. *See https://www.oge.gov/Web/oge.nsf/Resources/Rulemaking.*

OGE is now inviting all interested members of the public to share ideas, provide information, and express concerns at public meetings about specific topics related to legal expense funds. These meetings will allow interested groups to hear and respond to the concerns of other affected persons and allow OGE to further develop our understanding of the views of various constituencies. The goal of these meetings is to exchange ideas rather than come to a consensus.

To facilitate discussion at the public meetings, OGE welcomes input on issues related to legal expense funds, including, but not limited to, the following topics:

- Scope of a legal expense fund regulation, including:
  - The types of legal matters to be covered by a legal expense fund regulation if the employee seeks to raise funds for legal expenses arising from those legal matters;
  - Other possible sources of legal expense payments or legal support (*e.g.,* pro bono assistance, established legal aid providers) outside of a legal expense fund; and
  - The possibility of different rules for different types of employees.
- Structure of a legal expense fund, including:
  - Number of eligible beneficiaries for a legal expense fund; and
  - Legal structure used to establish a legal expense fund (*e.g.,* trust, limited liability company, etc.).

An agenda, a list of attendees, and a list of topics discussed will be posted to the following website at the conclusion of the public meetings: *https://www.oge.gov/Web/oge.nsf/Resources/Rulemaking.* There will be no transcription at the meetings. OGE is accepting additional written comments until November 5, 2019, during which time interested parties will have an opportunity to present further comment on issues related to legal expense funds.

Registration: To ensure adequate room accomodations and to facilitate entry to the meeting space, individuals wishing to attend the public meetings must register by close of business on the following dates:

- October 10, 2019, for the meeting on October 17th.
- October 15, 2019, for the meeting on October 22nd.

Individuals must register by sending an email to *usoge@oge.gov.* The email should include ''Legal Expense Fund Public Meeting'' in the subject line and include the name of the attendee(s) and the preferred date of attendance.

Written Comments: To submit a written comment to OGE, please email *usoge@oge.gov,* send a fax to: (202) 482–9237, or submit a paper copy to: Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005–3917 by close of business on the date listed in the **DATES** section of this notice. Individuals must include OGE's agency name and the words ''Legal Expense Fund Regulation'' in all written comments. All written comments, including attachments and other supporting materials, will become part of the public record and be subject to public disclosure. Written 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. Written comments generally will not be edited to remove any identifying or contact information

Approved: September 18, 2019.

Emory Rounds,

Director, U.S. Office of Government Ethics.

[FR Doc. 2019–20489 Filed 9–25–19; 8:45 am]

BILLING CODE 6345–03–P

DEPARTMENT OF ENERGY

10 CFR Chapters I, II, III, X, XIII, XVII and XVIII

Regulations Prohibiting Issuance, Reliance, or Defense of Improper Agency Guidance, Notice of Petition for Rulemaking

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Notice of petition for rulemaking; request for comment.

SUMMARY: On August 2, 2019, the Department of Energy (DOE) received a petition from the New Civil Liberties Alliance (NCLA) asking DOE to initiate a rulemaking to prohibit any DOE component from issuing, relying on, or defending improper agency guidance. Through this document, DOE seeks comment on the petition, as well as any data or information that could be used in DOE's determination whether to proceed with the petition.

DATES: Written comments and information are requested on or before December 26, 2019.

ADDRESSES: Interested persons are encouraged to submit comments, identified by ''Proposed Agency Guidance Rulemaking,'' by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: Guidance@hq.doe.gov.

Postal Mail: U.S. Department of Energy, Office of the General Counsel (GC–33), 6A–179, 1000 Independence Avenue SW, Washington, DC 20585. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

Hand Delivery/Courier: U.S. Department of Energy, 6A–179, 1000 Independence Avenue SW, Washington, DC 20585. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

Docket: For access to the docket to read background documents, or comments received, go to the Federal eRulemaking Portal at: *http://www.regulations.gov.*

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

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.,* provides among other things, that ''[e]ach agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.'' (5 U.S.C. 553(e)). DOE received a petition from NCLA, as described in this document and set forth verbatim below, requesting that DOE initiate a rulemaking to prohibit any DOE component from issuing, relying on, or defending improper agency guidance. In publishing this petition for public comment, DOE is seeking views on whether it should grant the petition and undertake a rulemaking. By seeking comment on whether to grant this petition, DOE takes no position at this time regarding the merits of the suggested rulemaking or the assertions made by NCLA.

In its petition, NCLA argues that federal agencies often issue informal interpretations, advice, statements of policy, and other forms of guidance that make law by declaring views about what the public should do even though the Constitution and APA prohibit doing so. NCLA asserts that such practice evades legal requirements and is used for the purpose of coercing persons or entities outside the federal government into taking or not taking action beyond what is required by an applicable statute or regulation. NCLA further states that despite being prohibited by law, improper guidance is typically outside of judicial review because of procedural limits. NCLA discusses a number of authorities in favor of its petition, including the U.S. Constitution, the APA, an OMB Bulletin (*Final Bulletin for Agency Good Guidance Practices,* issued in 2007), and an OMB Memorandum (OMB Memorandum M–19–14, issued in 2019). It concludes that to solve underlying problems completely, DOE should issue a binding and final rule prohibiting any DOE component from issuing, relying on, or defending improper agency guidance, and that only a new rule binding DOE can assure regulated parties that DOE will refrain from future improper use of guidance. The NCLA petition also presents text for a proposed rule.

DOE welcomes comments and views of interested parties on any aspect of the petition for rulemaking.

Submission of Comments

DOE invites all interested parties to submit in writing by December 26, 2019 comments and information regarding this petition.

Submitting comments via http://www.regulations.gov. The *http://www.regulations.gov* web page will require you to provide your name and contact information prior to submitting comments. Your contact information will be viewable to the DOE Office of the General Counsel staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *http://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *http://www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *http://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *http://www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or postal mail. Comments and documents via email, hand delivery, or postal mail will also be posted to *http://www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information in your cover letter each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English, and free of any defects or viruses. Documents should not include any special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: One copy of the document marked ''Confidential'' including all the information believed to be confidential, and one copy of the document marked ''Non-confidential'' with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of its process for considering rulemaking petitions. DOE actively encourages the participation and interaction of the public during the comment period. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in determining how to proceed with a petition.

Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of petition for rulemaking.

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

William S. Cooper, III,

General Counsel.

PETITION FOR RULEMAKING TO PROMULGATE REGULATIONS PROHIBITING THE ISSUANCE, RELIANCE ON OR DEFENSE OF IMPROPER AGENCY GUIDANCE

SUBMITTED TO

THE UNITED STATES DEPARTMENT OF ENERGY

August 2, 2019

Rick Perry
Secretary of Energy
U.S. Department of Energy
1000 Independence Ave. SW
Washington, DC 20585
(202) 586–5000

Bill Cooper
General Counsel
U.S. Department of Energy
1000 Independence Ave. SW
Washington, DC 20585
(202) 586–5000

Dan Brouillette
Deputy Secretary of Energy
U.S. Department of Energy
1000 Independence Ave., SW
Washington, DC 20585
(202) 586–5000

Eric J. Fygi
Deputy General Counsel
U.S. Department of Energy
1000 Independence Ave., SW
Washington, DC 20585
(202) 586–5000

Submitted by:

New Civil Liberties Alliance

1225 19th Street NW, Suite 450
Washington, DC 20036
tel.: (202) 869–5210
www.nclalegal.org

I. Statement of the Petitioner

Pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(e), the New Civil Liberties Alliance (hereinafter ''NCLA'') hereby petitions the United States Department of Energy (hereinafter ''DOE'' or the ''Department'') to initiate a rulemaking proceeding to promulgate regulations prohibiting any DOE component from issuing, relying on, or defending improper agency guidance. The proposed rule will formalize and make more permanent policies and best practices from other agencies concerning agency guidance that improperly attempts to create rights or obligations binding on persons or entities outside DOE. The proposed rule will also provide affected parties with a means of redress for improper agency action.

II. Summary of the Petition

Even though both the Constitution and the Administrative Procedure Act prohibit the practice, federal agencies often engage in the ''commonplace and dangerous'' acts of issuing informal interpretations, advice, statements of policy, and other forms of ''guidance'' that ''make law simply by declaring their views about what the public should do.'' Philip Hamburger, *Is Administrative Law Unlawful?* 260, 114 (2014). This practice evades legal requirements and often is ''used for the purpose of coercing persons or entities outside the federal government into taking any action or refraining from taking any action beyond what is required by the terms of the applicable statute or regulation.'' Office of the Att'y Gen., *Prohibition on Improper Guidance Documents* at 2 (Nov. 16, 2017), *available at https://www.justice.gov/opa/press-release/file/1012271/download.* Despite being prohibited by law, improper guidance is typically ''immuniz[ed]'' from judicial review by procedural limits. *Appalachian Power Co.* v. *Envtl. Prot.*

Agency, 208 F.3d 1015, 1020 (D.C. Cir. 2000). This conduct results in a form of illegal and unconstitutional ''extortion'' where agencies obtain compliance through ''extralegal lawmaking.'' Hamburger, *supra,* at 115, 260.

To rein in these abuses, NCLA proposes that DOE issue a formal rule prohibiting the Department and each of its subordinate offices from issuing, relying on, or defending the validity of improper guidance that has been issued by *any* federal entity. The proposed rule not only adopts existing legal limitations on such improper agency action, but also creates a permanent and binding set of limits on departmental practice. The proposed rule also provides means to enforce these limitations by empowering regulated parties to petition DOE to rescind improper guidance and to seek judicial review of improper agency actions.

III. Statement of Interest

NCLA is a nonprofit civil rights organization founded to defend constitutional rights through original litigation, amicus curiae briefs, and other means, including participating in the regulatory process in federal agencies. The ''civil liberties'' of the organization's name include rights at least as old as the U.S. Constitution itself, such as jury trial, due process of law, the right to live under laws made by the nation's elected lawmakers rather than by prosecutors or bureaucrats, and the right to be tried in front of an impartial and independent judge whenever the government brings cases against private parties.

NCLA defends civil liberties by asserting constitutional constraints on the administrative state. Although Americans still enjoy the shell of their Republic, a very different form of government has developed within it—a type that our Constitution was framed to prevent. Since this unconstitutional administrative state violates more rights of more Americans than any other aspect of American law, it is the focus of NCLA's efforts.

Even when NCLA has not yet sued to challenge an agency's unconstitutional exercise of administrative power, it encourages the agencies themselves to curb the unlawful exercise of power by respecting constitutional limits on administrative rulemaking, guidance, adjudication, and enforcement. The courts are not the only government bodies with the duty to attend to the law. More immediately, agencies and their leadership *have a duty to follow the law,* not least by avoiding unlawful modes of governance. Accordingly, a major part of NCLA's mission and duty is to advise and, if necessary, compel agencies and their leaders to examine whether their modes of rulemaking, guidance, adjudication, and enforcement comply with the APA and with the Constitution. NCLA is therefore an ''interested'' party concerning the proposed rule set forth in this document. *See* 5 U.S.C. 553(e).

IV. Legal Authority To Promulgate the Rule

This petition for rulemaking is submitted pursuant to 5 U.S.C. 553(e), which provides any ''interested person the right to petition [an agency] for the issuance . . . of a rule.'' Section 301 of the APA provides that the ''head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, and the custody, use, and preservation of its records, papers and property.'' *Id.* § 301. The Department of Energy is one such Executive department. *Id.* § 101. Accordingly, the Secretary of Energy may ''formulate and publish'' regulations binding DOE in the exercise of its lawful authority. *See Georgia* v. *United States,* 411 U.S. 526, 536 (1973), *abrogated on other grounds, Shelby Cty., Ala.* v. *Holder,* 570 U.S. 529 (2013). In addition, 42 U.S.C. 7254 authorizes the Secretary of Energy to ''prescribe such procedural and administrative rules and regulations as he may deem necessary or appropriate to administer and manage the functions now or hereafter vested in him.''

When an agency engages in rulemaking procedures it must abide by the requirements set out in 5 U.S.C. 553.

V. Reasons for Creating the Rule

A. Legal Background

No agency has any inherent power to make law. Article I, § 1 of the U.S. Constitution vests ''[a]ll legislative powers'' in Congress, and ''the lawmaking function belongs to Congress . . . and may not be conveyed to another branch or entity.'' *Loving* v. *United States,* 517 U.S. 748, 758 (1996). This is a constitutional barrier to an exercise of legislative power by an agency. Further, ''an agency literally has no power to act . . . unless and until Congress confers power upon it.'' *Louisiana Pub. Serv. Comm'n* v. *FCC,* 476 U.S. 355, 374 (1986). Thus, even if an agency could constitutionally exercise legislative power, it lacks the authority to bind anyone without congressional authorization.

Significantly, Congress has categorically *prohibited* the issuance of binding guidance. The Administrative Procedure Act was passed in 1946 in order ''to introduce greater uniformity of procedure and standardization of administrative practice among the diverse agencies whose customs had departed widely from each other.'' *Wong Yang Sung* v. *McGrath,* 339 U.S. 33, 41, *modified on other grounds by* 339 U.S. 908 (1950). As a result, it sets out a comprehensive set of rules governing administrative action. *Id.*

Consistent with this design, the APA established a process by which agencies could engage in ''rule making.'' 5 U.S.C. 553. The APA explains that a ''rule'' ''means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency.'' *Id.* § 551(4).

Rules generally may be promulgated by agencies only following notice-and-comment procedures. First, an agency must post a ''general notice'' of the proposed rulemaking in a prominent place and seek commentary from private parties. *Id.* § 553(b). This notice must set out ''the time, place and nature'' of the proposed ''public rule making proceedings,'' ''the legal authority under which the rule is proposed,'' and ''either the terms or substance of the proposed rule or a description of the subjects and issues involved.'' *Id.* §§ 553(b)(1)–(3).

After the notice has been posted, the agency must ''give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments.'' *Id.* § 553(c). ''An agency must consider and respond to significant comments received during the period for public comment.'' *Perez* v. *Mortgage Bankers Ass'n,* 135 S. Ct. 1199, 1203 (2015). In response to submitted comments, a ''general statement'' of the purpose of the rules must also be ''incorporate[d] in the rules adopted.'' 5 U.S.C. 553(c).

The APA's notice-and-comment period ''does not apply . . . to interpretive rules, general statements of policy, or rules of agency organization procedure, or practice.'' *Id.* § 553(b). Instead, this requirement applies only to ''substantive rules,'' which are sometimes referred to as ''legislative rules.'' *Mendoza* v. *Perez,* 754 F.3d 1002, 1021 (D.C. Cir. 2014); *see also* 5 U.S.C. § 553(d) (distinguishing between ''substantive'' and ''interpretive'' rules for publication and service).

A ''substantive'' or ''legislative'' rule is any ''agency action that purports to impose legally binding obligations or prohibitions on regulated parties.'' *Nat'l Mining Ass'n* v. *McCarthy,* 758 F.3d 243, 251 (D.C. Cir. 2014). Stated differently: ''A rule is legislative if it supplements a statute, adopts a new position inconsistent with existing regulations, or otherwise effects a substantive change in existing law or policy.'' *Mendoza,* 754 F.3d at 1021. Such ''legislative rules'' have the ''force and effect of law.'' *Chrysler Corp.* v. *Brown,* 441 U.S. 281, 302–03 (1979). Legislative rules are also accorded deference from courts. *United States* v. *Mead Corp.,* 533 U.S. 218, 230 (2001).

In contrast, ''interpretive rules'' are not subject to notice-and-comment requirements. *Mendoza,* 754 F.3d at 1021. Interpretive rules ''do not have the force and effect of law and are not accorded that weight in the adjudicatory process.'' *Shalala* v. *Guernsey Mem'l Hosp.,* 514 U.S. 87, 99 (1995). An interpretive rule is any ''agency action that merely interprets a prior statute or regulation and does not itself purport to impose new obligations or prohibitions or requirements on regulated parties.'' *Nat'l Mining Ass'n,* 758 F.3d at 252. ''[I]nterpretive rules . . . are issued by an agency to advise the public of the agency's construction of the statutes and rules which it administers.'' *Perez,* 135 S. Ct. at 1204 (internal citation and quotation marks omitted). Such a rule simply ''describes the agency's view of the meaning of an existing statute or regulation.'' *Batterton* v. *Marshall,* 648 F.2d 694, 702 n. 34 (D.C. Cir. 1980).

The notice-and-comment process is not merely a technical requirement under the APA. The process serves important purposes. As the Supreme Court has explained, ''Congress contemplates administrative action with the effect of law when it provides for a relatively formal administrative procedure tending to foster the fairness and deliberation that should underlie a

pronouncement of such force.'' *Mead Corp.,* 533 U.S. at 230. ''APA notice and comment'' is one such formal procedure, ''designed to assure due deliberation.'' *Id.* (quoting *Smiley* v. *Citibank (South Dakota) N.A.,* 517 U.S. 735, 741 (1996)).

By contrast, informal interpretations, such as policy statements, agency manuals, enforcement guidelines and opinion letters, ''lack the force of law'' and warrant, at best, only limited ''respect'' from courts concerning matters of interpretation. *Christensen* v. *Harris County,* 529 U.S. 576, 587 (2000). Further, to the extent that a court grants any respect to these interpretations, the strength of such respect varies widely depending on the degree of formality employed by the agency. *See Mead Corp.,* 533 U.S. at 228 (discussing the deference owed to agency decisions). It depends in many instances on an agency's use of ''notice-and-comment rulemaking or formal adjudication.'' *Id.* at 228–30 (internal citation and quotation marks omitted). A court gives the least amount of respect to an ''agency practice [that lacks] any indication [the agency] set out with a lawmaking pretense in mind'' when it acted. *Id.* at 233.

Despite the relatively straightforward legal distinction, it is not always easy for courts or regulators to draw practical distinctions between ''legislative'' and ''interpretive'' rules. Because each agency action is unique, determining whether a given agency action is a legislative rule or interpretive rule ''is an extraordinarily case-specific endeavor.'' *Am. Hosp. Ass'n* v. *Bowen,* 834 F.2d 1037, 1045 (D.C. Cir. 1987).

Perhaps because of this difficulty, or perhaps for more invidious reasons, agencies often promulgate legislative rules under the guise of mere guidance, without following the notice-and-comment requirements of the APA. And courts, in turn, have often struck down such rules. *See, e.g., Mendoza,* 754 F.3d at 1025 (vacating guidance documents as legislative rules that failed to comply with APA notice-and-comment requirements); *Elec. Privacy Info. Ctr.* v. *U.S. Dep't of Homeland Sec.,* 653 F.3d 1, 8 (D.C. Cir. 2011) (same); *Hemp Indus. Ass'n* v. *Drug Enforcement Admin.,* 333 F.3d 1082, 1091 (9th Cir. 2003) (same); *Nat'l Family Planning & Reprod. Health Ass'n, Inc.* v. *Sullivan,* 979 F.2d 227, 231 (D.C. Cir. 1992) (same); *Texas* v. *United States,* 201 F. Supp. 3d 810, 825 (N.D. Tex. 2016) (same), *appeal dismissed,* 2017 WL 7000562 (5th Cir. Mar. 3, 2017).

But the prevalence of court invalidation of improper guidance vastly understates the problem, because ''extralegal'' agency action ''usually occurs out of view.'' Hamburger, *supra,* at 260. ''To escape even the notice-and-comment requirement for lawmaking interpretation, agencies increasingly make law simply by declaring their views about what the public should do.'' *Id.* at 114. Such improper guidance statements are often deliberate ''evasions'' of legal requirements, and ''an end run around [an agency's] other modes of lawmaking.'' *Id.* (internal citation and quotation marks omitted). In many instances, an agency's ''guidance'' is actually a means of ''extralegal lawmaking.'' *Id.* at 115.

Agencies have strong incentives to resort to this kind of extralegal lawmaking. The ''absence of a notice-and-comment obligation makes the process of issuing interpretive rules comparatively easier for agencies than issuing legislative rules.'' *Perez,* 135 S. Ct. at 1204. An agency operating in this fashion can issue rules ''quickly and inexpensively without following any statutorily prescribed procedures.'' *Appalachian Power Co.,* 208 F.3d at 1020. When this happens, ''[l]aw is made, without notice and comment, without public participation, and without publication in the **Federal Register** or the Code of Federal Regulations.'' *Id.*

More troubling, ''[w]hen agencies want to impose restrictions they cannot openly adopt as administrative rules, and that they cannot plausibly call 'interpretation,' they typically place the restrictions in guidance, advice, or other informal directives.'' Hamburger, *supra,* at 260. This is ''a sort of extortion,'' because an agency can secure compliance by ''threatening'' enforcement or other regulatory action, even if the agency has no genuine authority to act in the first place. *Id.* at 260–61. An agency's informal ''views about what the public should do,'' almost always comes ''with the unmistakable hint that it is advisable to comply.'' *Id.* at 114–15.

This extortion is primarily enabled by the judiciary's inability to review improper guidance. Indeed, an agency often realizes that ''another advantage'' to issuing guidance documents, is ''immunizing its lawmaking from judicial review.'' *Appalachian Power Co.,* 208 F.3d at 1020. As discussed above, legislative rules will only be invalidated for failure to conform to the notice-and-comment process after they have been determined to be legislative in the first place. This is neither a simple nor quick task.

Simultaneously, even invalid, binding, legislative rules may escape judicial review. The APA typically allows review only of ''final agency action.'' 5 U.S.C. 704. ''[T]wo conditions must be satisfied for agency action to be 'final': First, the action must mark the consummation of the agency's decision-making process. And second, the action must be one by which rights or obligations have been determined, or from which legal consequences will flow.'' *Bennett* v. *Spear,* 520 U.S. 154, 177–78 (1997) (internal citations and quotation marks omitted).

But ''an agency's action is not necessarily final merely because it is binding.'' *Appalachian Power Co.,* 208 F.3d at 1022. An initial or interim ruling, even one that binds, ''does not mark the consummation of agency decision-making'' and thus might not constitute final agency action. *Soundboard Ass'n* v. *Fed. Trade Comm'n,* 888 F.3d 1261, 1271 (D.C. Cir. 2018); *see also Ctr. for Food Safety* v. *Burwell,* 126 F. Supp. 3d 114, 118 (D.D.C. 2015) (Contreras, J.) (discussing binding ''Interim Policy'' of agency that was in effect for 17 years but evaded judicial review as non-final action).

As a result, courts rarely consider the genuinely coercive effects of guidance documents as sufficiently binding to permit review. For example, even a warning letter from an agency alleging a violation of a regulation and threatening an enforcement action does not establish sufficiently concrete ''legal consequences'' to be considered ''final agency action'' that a court may review. *Holistic Candlers & Consumers Ass'n* v. *Food & Drug Admin.,* 664 F.3d 940, 944 (D.C. Cir. 2012). Indeed, ''practical consequences, such as the threat of having to defend itself in an administrative hearing should the agency actually decide to pursue enforcement, are insufficient to bring an agency's conduct under [a court's] purview.'' *Indep. Equip. Dealers Ass'n* v. *Envtl. Prot. Agency,* 372 F.3d 420, 428 (D.C. Cir. 2004) (internal citation and quotation marks omitted). Even to the extent that such action coerces compliance from a regulated entity, and even to the extent this might result in ''a dramatic impact on the [affected] industry,'' it still may not be considered final action subject to review. *Soundboard Ass'n,* 888 F.3d at 1272; *see also Nat'l Mining Ass'n,* 758 F.3d at 253 (agency action is not final even if a regulated entity ''really has no choice when faced with 'recommendations' except to fold,'' and might ''feel pressure to voluntarily conform their behavior because the writing is on the wall'').

This use of guidance results in ''commonplace and dangerous'' abuses of administrative power and ''often leaves Americans at the mercy of administrative agencies.'' Hamburger, *supra,* at 260, 335. ''It allows agencies to exercise a profound under-the-table power, far greater than the above-board government powers, even greater than the above-board administrative powers, and agencies thuggishly use it to secure what they euphemistically call 'cooperation.'" *Id.* at 335. This results in an ''evasion'' of the Constitution and an affront to the basic premise that laws can only be made by the Congress. *Id.* at 113–14; *see also La. Pub. Serv. Comm'n,* 476 U.S. at 374. It is also statutorily forbidden. *Mendoza,* 754 F.3d at 1021. And it often results in violations of the due process of law. Hamburger, *supra,* at 241, 353. But, perhaps by design, such improper agency conduct routinely occurs with little hope of judicial intervention. *See Appalachian Power Co.,* 208 F.3d at 1020.

B. Prior Responses to These Problems

1. The 2007 Bulletin for Agency Good Guidance Practices

On January 18, 2007, the Office of Management and Budget for the Executive Office of the President, addressed the ongoing problem caused by the issuance of ''poorly designed or improperly implemented'' ''guidance documents'' from administrative entities. Office of Mgmt. & Budget, Executive Office of the President, *Final Bulletin for Agency Good Guidance Practices,* 72 FR 3432, 3432 (Jan. 18, 2007) (OMB Bulletin). OMB explained that many stakeholders had ongoing ''[c]oncern about whether agencies'' had been improperly issuing guidance documents that actually ''establish new policy positions that the agency treats as binding,'' without following the notice-and-comment requirements of the APA. *Id.* at 3433. In addition to promulgating formal rules with the effect of law, many ''agencies increasingly have relied on guidance documents to inform the public and to provide direction to their staffs.'' *Id.* at 3432.

While the bulletin characterized this practice as generally positive, it noted that

many guidance documents do ''not receive the benefit of careful consideration accorded under the procedures for regulatory development and review.'' *Id.* Even worse, ''[b]ecause it is procedurally easier to issue guidance documents, there also may be an incentive for regulators to issue guidance documents in lieu of regulations.'' *Id.* Some of these guidance documents also improperly ''establish new policy positions that the agency treats as binding,'' despite failing to comply with the APA's notice-and-comment and judicial review provisions. *Id.* at 3433. To combat this problem, OMB issued its Final Bulletin to help ensure that guidance documents issued by Executive Branch departments and agencies under the OMB's management would not improperly issue ''legally binding requirements.'' *Id.*

First, the OMB Bulletin directed each agency to ''develop or have written procedures for the approval of significant guidance documents,'' in order to ''ensure that the issuance of significant guidance documents is approved by appropriate senior agency officials.'' *Id.* at 3436, 3440. The OMB Bulletin also suggested that each significant guidance document adhere to the following:

a. Include the term ''guidance'' or its functional equivalent;

b. Identify the agenc(ies) or office(s) issuing the document;

c. Identify the activity to which and the persons to whom the significant guidance document applies;

d. Include the date of issuance;

e. Note if it is a revision to a previously issued guidance document and, if so, identify the document that it replaces;

f. Provide the title of the document, and any document identification number, if one exists;

g. Include the citation to the statutory provision or regulation (in Code of Federal Regulations format) which it applies to or interprets; and

h. Not include mandatory language such as ''shall,'' ''must,'' ''required'' or ''requirement,'' unless the agency is using these words to describe a statutory or regulatory requirement, or the language is addressed to agency staff and will not foreclose agency consideration of positions advanced by affected private parties.

Id. at 3440.

Finally, the OMB Bulletin suggested that each agency establish procedures for improving public access and feedback for significant guidance documents. In the case of ''economically significant guidance documents,'' these suggestions included following notice-and-comment procedures in certain cases. *Id.* at 3438.

The OMB Bulletin was limited in two important ways. First, it only applied to the issuance of ''significant guidance documents'' by Executive Branch agencies. *Id.* at 3432. This was defined as a ''document disseminated to regulated entities or the general public that may reasonably be anticipated to: (i) Lead to an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (ii) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (iii) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (iv) raise novel legal or policy issues arising out of legal mandates[.]'' *Id.* at 3439.

Second, the OMB Bulletin did not create any means of review or redress should agencies choose to disregard it. *Id.* at 3439. Under a heading entitled ''Judicial Review,'' the Bulletin provided that it was meant only ''to improve the internal management of the Executive Branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its agencies or other entities, its officers or employees, or any other person.'' *Id.* Although DOE identifies guidance documents on its website,[1] it has not taken any steps toward forswearing the issuance of guidance documents that support new or amended rights or obligations created outside of the rulemaking process.

2. The Justice Department's 2017 and 2018 Policy Memoranda

Following the OMB Bulletin's lead more than a decade later, on November 16, 2017, Attorney General Jeff Sessions issued a memorandum for all Justice Department components entitled *Prohibition on Improper Guidance Documents* (Sessions Memo). This memo immediately prohibited all Department of Justice components from issuing agency guidance documents that ''purport to create rights or obligations binding on persons or entities outside the Executive Branch.'' *Id.* at 1, *available at https://www.justice.gov/opa/press-release/file/1012271/download.*

The Sessions Memo explained that ''the Department has in the past published guidance documents—or similar instruments of future effect by other names, such as letters to regulated entities—that effectively bind private parties without undergoing the rulemaking process.'' It also explained that guidance documents might improperly ''be used for the purpose of coercing persons or entities outside the federal government into taking any action or refraining from taking any action beyond what is required by the terms of the applicable statute or regulation.'' This practice often evaded ''notice-and-comment'' rules ''required by law,'' and deprived the agencies ''of more complete information about a proposed rule's effects than the agency could ascertain on its own.'' *Id.*

The new policy prohibited any agency operating within the Department of Justice from using regulatory guidance ''as a substitute for rulemaking.'' As such, guidance documents would no longer be promulgated that either ''impose new requirements on entities outside the Executive Branch,'' or ''create binding standards by which the Department will determine compliance with existing regulatory or statutory requirements.'' Future guidance documents would only be issued to ''educate regulated parties through plain-language restatements of existing legal requirements or provide non-binding advice on technical issues through examples or practices to guide the application or interpretation of statutes and regulations.'' *Id.*

To support these goals, Attorney General Sessions set out the following five ''principles'' to which all components ''should adhere'' ''when issuing guidelines'':

[1] Guidance documents should identify themselves as guidance, disclaim any force or effect of law, and avoid language suggesting that the public has obligations that go beyond those set forth in the applicable statutes or legislative rules.

[2] Guidance documents should clearly state that they are not final agency actions, have no legally binding effect on persons or entities outside the federal government, and may be rescinded or modified in the Department's complete discretion.

[3] Guidance documents should not be used to for the purpose of coercing persons or entities outside the federal government into taking any action or refraining from taking any action beyond what is required by the terms of the applicable statute or regulation.

[4] Guidance documents should not use mandatory language such as ''shall,'' ''must,'' ''required,'' or ''requirement'' to direct parties outside the federal government to take or refrain from taking action, except when restating—with citations to statutes, regulations, or binding judicial precedent—clear mandates contained in a statute or regulation. In all cases, guidance documents should clearly identify the underlying law that they are explaining.

[5] To the extent guidance documents set out voluntary standards (*e.g.,* recommended practices), they should clearly state that compliance with those standards is voluntary and that noncompliance will not, in itself, result in any enforcement action.

Id. at 2.

The memo also defined ''guidance documents'' to include ''any Department statements of general applicability and future effect, whether styled as guidance or otherwise that are designed to advise parties outside the federal Executive Branch about legal rights and obligations falling within the Department's regulatory or enforcement authority.'' *Id.* Notably, this definition excluded ''internal directives [and] memoranda.'' *Id.* at 2–3. In accordance with this new policy, the Attorney General also directed the Justice Department's Regulatory Reform Task Force ''to work with components to identify existing guidance documents that should be repealed, replaced, or modified in light of these principles.'' *Id.* at 2.

Finally, the memo made clear that it ''is an internal Department of Justice policy directed at Department components and employees. As such, it is not intended to, does not, and may not be relied upon to, create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal.'' *Id.* at 3.

Just over a month later, the Attorney General announced that he was applying his

[1] *See https://www.directives.doe.gov/guidance#b_start=0.*

November memo and ''rescinding 25 [guidance] documents that were unnecessary, inconsistent with existing law, or otherwise improper.'' Press Release, *Attorney General Jeff Sessions Rescinds 25 Guidance Documents,* Department of Justice, Office of Public Affairs, Press Release No. 17–1469 (Dec. 21, 2017) *available at https://www.justice.gov/opa/pr/attorney-general-jeff-sessions-rescinds-25-guidance-documents.* Then on July 3, 2018, the Attorney General rescinded 24 more improper guidance documents. Press Release, *Attorney General Jeff Sessions Rescinds 24 Guidance Documents,* Department of Justice, Office of Public Affairs, Press Release No. 18–883 (July 3, 2018) *available at https://www.justice.gov/opa/pr/attorney-general-jeff-sessions-rescinds-24-guidance-documents.* The Attorney General also said that the Department would ''continu[e] its review of existing guidance documents to repeal, replace, or modify.'' *Id.*

On January 25, 2018, then Associate Attorney General Rachel Brand, who was the chair of the Department's Regulatory Reform Task Force, issued a memorandum entitled *Limiting Use of Agency Guidance Documents in Affirmative Civil Enforcement Cases* (Brand Memo), for all Justice Department litigators. This memo echoed the Sessions Memo's concerns that Justice Department agencies had previously issued ''guidance documents that purport to create rights or obligations binding on persons or entities outside the Executive Branch.'' *Id.* at 1, *available at https://www.justice.gov/file/1028756/download.*

AAG Brand therefore directed that for all affirmative civil enforcement (ACE) cases, ''the Department may not use its enforcement authority to effectively convert agency guidance documents into binding rules.'' *Id.* at 2. To accomplish this goal, the Brand Memo went farther than the Sessions Memo and applied to ''guide Department litigators in determining the legal relevance of *other agencies'* guidance documents,'' including the Department of Energy. *Id.* at 1 (emphasis added). Further, ACE litigators were also prohibited from ''us[ing] noncompliance with guidance documents as a basis for proving violations of applicable law.'' *Id.* at 2. ''That a party fails to comply with agency guidance expanding upon statutory or regulatory requirements does not mean that the party violated those underlying legal requirements; agency guidance documents cannot create any additional legal obligations.'' *Id.*

As with the Sessions Memo, the Brand Memo contained an elaborate disclaimer carefully setting out that it had no binding effect on any party outside the Department of Justice. ''As such, it is not intended to, does not, and may not be relied upon to, create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal.'' *Id.*

3. The 2019 Guidance on Compliance With the Congressional Review Act Memorandum

On April 11, 2019, OMB issued a memorandum to all heads of executive departments and agencies, directing them to abide by their Congressional Review Act (CRA) obligations. Office of Mgmt. & Budget, Executive Office of the President, *Guidance on Compliance with the Congressional Review Act,* No. M–19–14, at 1 (Apr. 11, 2019) (OMB Memo). Among other things, the CRA establishes a process by which Congress, typically through notification by the Office of Information and Regulatory Affairs (OIRA) and the Government Accountability Office (GAO), may exercise direct oversight of agencies by resolving to disapprove of agencies' proposed major rulemaking. *See* 5 U.S.C. 801(b). At first glance, it may seem peculiar that OMB would have to ''*reinforce*[] the obligations of Federal agencies[,]'' but agencies have been disregarding their statutory rulemaking obligations with impunity for years. *See* OMB Memo at 1, 2 (emphasis added). In fact,

> OIRA does not consistently receive from agencies the information necessary to determine whether a rule is major, in part because some regulatory actions are rules under the CRA are not submitted to OIRA through the centralized review process of Executive Order 12866.

Id. at 4.

The OMB Memo reaffirmed ''the broad applicability of the CRA to all Federal agencies and a wide range of rules[.]'' *Id.* at 2. It also noted that the CRA adopts the APA's ''expansive definition of 'rule.'" *Id.* Thus, the OMB Memo concluded that

> [t]he CRA applies to more than just notice-and-comment rules; it also encompasses a wide range of other regulatory actions, including, *inter alia,* guidance documents, general statements of policy, and interpretive rules.

Id. at 3 (citing 5 U.S.C. 551(4)). Effective May 11, 2019, all proposed rules—whether the agency believes a rule to be major or minor or legislative or interpretive—*must* be submitted to OIRA for review. *See id.* at 5. This mandatory reporting requirement encompasses all guidance—including DOE guidance—that alters the legal duties of private parties.

4. The 2019 *Kisor* v. *Wilkie, Secretary of Veterans Affairs* Decision

On June 26, 2019, the Supreme Court decided *Kisor* v. *Wilkie, Secretary of Veterans Affairs.* Announcing the judgment of the Court, Justice Kagan's plurality opinion reiterated the Court's long-standing view that rulemaking under APA Section 553 ''mandates that an agency use notice-and-comment procedures before issuing legislative rules.'' *Kisor* v. *Wilkie,* No. 18–15, 588 U.S. ____, slip op. at 22 (2019). An agency may avoid notice-and-comment procedures only where a proposed rule is interpretive and ''not supposed to 'have the force and effect of law'—or, otherwise said, to bind private parties.'' *Id.* ''[I]nterpretive rules are meant only to 'advise the public' of how the agency understands, and is likely to apply, its binding statutes and legislative rules.'' *Id.* Since interpretive rules ''never'' form the basis of enforcement actions, courts cannot—and will not—attribute the force of law to interpretive rules. *See id.* at 23. Thus, when reviewing agency action, courts ''must heed the same procedural values as [APA] Section 553 reflects[,]'' when considering whether the agency has issued ''authoritative and considered judgments.'' *See id.* These principles are part of the foundation of administrative law. *See, e.g., Perez,* 135 S.Ct. at 12003–04.

5. Current Status of Guidance and the Department of Energy

The Sessions and Brand Memoranda are unequivocal—Executive Branch departments and agencies must cease the unconstitutional practice of issuing guidance as a means of avoiding notice-and-comment procedures when promulgating substantive rules. Indeed, as the *Kisor* plurality stated, ''[n]o binding of anyone occurs merely by [an] agency's say-so.'' *Kisor,* 139 S. Ct. at 2420. Despite this admonishment and current Justice Department directives, DOE's pending notices of rulemaking do not include a proposed rule that would unequivocally and permanently bind the Department in a manner consistent with the Justice Department Memoranda.

The DOE's dilatory approach to cementing the Justice Department's directive is puzzling given DOE's commitment to regulatory reform, as evidenced by the Department's request for public comment on implementing Executive Order 13771, its final report on Executive Order 13783, and Secretary Perry's December 7, 2017 directive to each Departmental element to identify areas for regulatory reform. While regulatory redesign is laudable, these actions do not address the Department's past, present, or future use of guidance. Indeed, the Department's regulatory reform and deregulatory initiatives, while important, are only one component of the Administration's larger strategy to reform the regulatory landscape and the relationship between the regulators and the regulated. The other co-equal regulatory reform component is transparent, open, and accountable notice-and-comment rulemaking where agencies seek to create, define, and regulate the rights, duties, and powers of private parties. In fact, to call this regulatory ''reform'' may be a bit of a misnomer, as the Supreme Court has long held that agencies cannot avoid notice-and-comment procedures when promulgating substantive rules because such procedures ''were designed to assure fairness and mature consideration of rules of general application.'' *See NLRB* v. *Wyman-Gordon Co.,* 394 U.S. 759, 764 (1969).

C. The Rule Is Necessary Because Meta-Guidance Is Insufficient

Given the legal background just discussed, the various reform efforts outlined above are extremely important measures to rein in the improper use of guidance documents. The 2007 OMB Bulletin and 2019 Memo, in conjunction with the Sessions and Brand Memos, clearly identify some of the worst features of the guidance problem and provide a good start for the broader regulatory reform effort. Unfortunately, even these documents do not go far enough to combat the pernicious harms caused by binding guidance, primarily because they constitute, at most, mere ''guidance on guidance.''

While these meta-guidance documents advance essential points, and identify regulatory pathologies, they ultimately constitute nothing more than temporary

policy announcements within their supervised agencies. Hence, they should not be the sole model for DOE's reform efforts. To solve the underlying problems completely, DOE should issue binding and final rules prohibiting any Department component from issuing, relying on, or defending improper agency guidance.[2]

The first and most significant problem with the previously-issued meta-guidance documents is that they lack any permanent or binding effect. Even though the 2007 OMB Bulletin was issued following notice-and-comment proceedings, it nevertheless serves only as a guide for good agency practice in future contexts. It provides non-binding suggestions for good practice, and specifically disclaims the creation of ''any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its agencies or other entities, its officers or employees, or any other person.'' OMB Bulletin, 72 FR at 3439. In other words, to the extent that the OMB Bulletin might be ignored, an affected party has no means of redress.

Notably, since the OMB Bulletin was issued, Executive Branch agency action has been promulgated in apparent defiance of the Bulletin. *See, e.g., Elec. Privacy Info. Ctr.,* 653 F.3d at 8 (invalidating Department of Homeland Security rule as legislative rule that failed to comply with APA notice-and-comment requirements); *Hemp Indus. Ass'n,* 333 F.3d at 1091 (same for DEA rule); *Texas* v. *United States,* 201 F. Supp. 3d at 825 (N.D. Tex. 2016) (same for Department of Education rule). Further, to the extent that improper guidance may escape judicial review for other reasons, one may only guess how many other improper guidance documents have been issued notwithstanding the Bulletin. *See, e.g., Soundboard Ass'n,* 888 F.3d at 1271–73 (agency documents issued in 2009 and 2016 could not be reviewed even if ''regulated entities could assert a dramatic impact on their industry'' resulting from the documents).

The Sessions and Brand Memos suffer from this same defect. In fact, both disclaim that those documents even rise to the level of ''guidance'' and insist instead that they are mere ''internal directives [and] memoranda.'' Sessions Memo at 2–3; Brand Memo at 1. Thus, to the extent offices or individuals within the Department of Justice ignore these guidelines, they could ''not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal.'' Sessions Memo at 3; Brand Memo at 2.

Although these memos constitute noble policy goals, they could also be immediately rescinded at any time—without seeking any input from affected entities. While the OMB Bulletin followed notice-and-comment procedures, it was not required to do so because it was not a binding legislative rule. *See* 5 U.S.C. 553(b). If a new administration wants to rescind it, it can do so without any formal procedures. *See Perez,* 135 S. Ct. at 1203 (agency action not subject to mandatory notice-and-comment procedures may be altered or rescinded at will). The Sessions and Brand Memos could also be rescinded with little notice or fanfare.

Moreover, none of these efforts solved the underlying problem. Even when improperly issued, defective guidance documents evaded judicial review—and continue to do so. Even where ''regulated entities could assert a dramatic impact on their industry,'' and even when such agency guidance is improper legislative rulemaking, it may nevertheless escape judicial review as non-final action. *See Soundboard Ass'n,* 888 F.3d at 1272. If an agency action also violates the OMB Bulletin, the result remains the same. The inability to subject such actions to judicial review can have momentous, and even disastrous, consequences for regulated industries that might ''feel pressure to voluntarily conform their behavior because the writing is on the wall.'' *Nat'l Mining Ass'n,* 758 F.3d at 253.

Finally, even to the extent that the documents genuinely confine improper rulemaking, each contains significant limitations to its scope. The OMB Bulletin only applies to ''significant guidance'' documents issued by the limited number of ''Executive Branch departments and agencies,'' not to independent agencies. OMB Bulletin, 72 FR at 3433, 3436. Similarly, the Sessions Memo only applies to a subset of Department of Justice actions. Sessions Memo at 1. And while the Brand Memo has some effect when external agency guidance documents are relevant to DOJ action, it is still confined to an extremely narrow class of future ''affirmative civil enforcement'' cases. Brand Memo at 1.

The 2019 OMB Memo, however, is much broader in scope—it seeks to stop unlawful agency rulemaking Executive Department-wide. As such, it could rectify the shortcomings of the Sessions and Brand Memos, but it is not clear what enforcement mechanisms will be in place, if any, to ensure that departments and agencies comply. Moreover, DOE does not have a policy or rule in place that contemplates OIRA's review of all proposed departmental action, as mandated by the 2019 OMB Memo. Only a new rule binding DOE and its various components can assure regulated parties that the Department will refrain from the improper use of guidance in the future. For that reason, Petitioner has provided the text for an adequate and effective rule below.

D. Text of the Proposed Rule

While the most effective, efficient, and logical way to promote the following rule would be to do so at the departmental level, the following text could readily be adapted by individual Department offices and administrations wishing to pursue reform on their own, if necessary.

Section 1: Congressional Review Act Compliance

a. The Department of Energy and its offices and administrations (''DOE'' or ''Department'') will comply with all Congressional Review Act, 5 U.S.C. 801–808, requirements for review of all proposed regulatory actions, including, but not limited to, legislative rules, regulations, guidance documents, general statements of policy, and interpretive rules.

b. All proposed regulatory actions that DOE submits to the Office of Information and Regulatory Affairs (''OIRA'') pursuant to Executive Order 12866, will include:

i. A DOE-proposed significance determination; and

ii. a DOE-proposed determination as to whether the regulatory action meets the definition of a ''major rule'' under 5 U.S.C. 804(2).

c. Where proposed regulatory actions would not meet Executive Order 12866's OIRA review requirement, and where the category of regulatory action had not been previously designated as presumptively not-major by OIRA, the Department will notify OIRA of the proposed regulatory action in writing. The written notification to OIRA will include:

i. DOE's summary of the proposed regulatory action;

ii. DOE's assessment as to the nature of the proposed regulatory action, including, but not limited to, whether the action is legislative or interpretive and whether it is applicable to the Department or to private parties outside the Department; and

iii. DOE's recommended designation of the regulatory action as a major rule or not, as defined by 5 U.S.C. 804(2).

d. If OIRA designates DOE's proposed regulatory action as a possible major rule, the Department will:

i. Submit the proposed regulatory action to OIRA for CRA review at least 30 days before the Department publishes the proposed rule in the **Federal Register** or otherwise publicly releases the rule;

ii. submit an analysis sufficient to allow OIRA to make its major rule determination. This analysis should include, but not be limited to, information regarding the degree of uncertainty concerning the regulatory action's impacts; and

iii. provide all required information, analysis, and documentation to OIRA in a manner consistent with the principles and metrics enunciated in OMB Circular A–4 (Sept. 17, 2003) and Part IV of OMB Memorandum M–19–14 (Apr. 11, 2019).

e. If OIRA designates the proposed regulatory action not-major, the Department may proceed with its rulemaking procedures without submitting a CRA report to Congress.

f. If OIRA designates the proposed regulatory action a major rule, the Department will:

i. Submit a CRA report to Congress and the Comptroller in accordance with the provisions of 5 U.S.C. 801(a);

ii. publish the major rule in the **Federal Register**; and

[2] The proposed internal rule would be controlling only within DOE and is not strictly a ''substantive'' or ''legislative'' rule as that term is otherwise used in this document. NCLA invokes the Secretary's authority ''to prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property.'' 5 U.S.C. 301. Such rules should be considered ''housekeeping'' rules that have a controlling effect within DOE but cannot bind parties outside DOE without an additional grant of rulemaking authority. *See Chrysler Corp.* v. *Brown,* 441 U.S.281, 283, 309 (1979) (describing section 301 as a ''housekeeping statute'' and ''simply a grant of authority to the agency to regulate its own affairs.'').

iii. delay the effective date of the major rule for 60 days after the later of the major rule's submission to Congress or its **Federal Register** publication date.

g. All DOE rules will include the following statement: ''Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as [a 'major rule' or not a 'major rule'], as defined by 5 U.S.C. 804(2).''

Section 2: Requirements for Issuance of Legislative Rules

a. Neither the Department of Energy nor any office operating within the Department may issue any ''legislative rule'' without complying with all requirements set out in 5 U.S.C. 553.

b. Any pronouncement from the Department or any office operating within DOE that is not a ''legislative rule'' must:

i. Identify itself as ''guidance'' or its functional non-legislative equivalent, or as an internal DOE regulation as authorized by applicable enabling legislation;

ii. Disclaim any force or effect of law;

iii. Prominently state that it has no legally binding effect on persons or entities outside DOE;

iv. Not be used for purposes of coercing persons or entities outside the Department or office itself into taking any action or refraining from taking any action beyond what is already required by the terms of the applicable statute; and

v. Not use mandatory language such as ''shall,'' ''must,'' ''required,'' or ''requirement'' to direct parties outside the federal government to take or refrain from taking action, except when restating—with citations to statutes or binding judicial precedent—clear mandates contained in a statute.

c. A regulated entity's noncompliance with any agency pronouncement other than a ''legislative rule,'' issued from any agency (whether or not the agency or office is operating within the Department), may not be considered by any entity within DOE in determining whether to institute an enforcement action or as a basis for proving or adjudicating any violation of applicable law.

d. No office operating within the Department may apply any ''legislative rule,'' as defined by this rule, issued by DOE or any other agency, no matter how styled, which has not complied with all requirements set out in 5 U.S.C. 553.

e. No office operating within the Department may defend the validity of any ''legislative rule,'' as defined by this rule, issued by DOE or any other agency, no matter how styled, which has not complied with all requirements set out in 5 U.S.C. 553, in any court or administrative proceeding.

Section 3: Judicial Review

a. Any ''interested party'' may petition any office operating within the Department to determine whether a prior agency pronouncement, no matter how styled, is a ''legislative rule'' as defined by this rule.

b. Such a petition for review shall be filed in writing with the agency or office, pursuant to the procedures set out in compliance with 5 U.S.C. 553(e).

c. Any office operating within the Department must respond to such a petition for review within 60 calendar days of receipt of the petition.

d. The office operating within the Department must respond by either:

vi. Rescinding the prior Department pronouncement; or

vii. Denying the petition for review on the basis that the Department pronouncement under review did not constitute a ''legislative rule,'' or on the basis that the Department pronouncement was adopted in compliance with the requirements set out in 5 U.S.C. 553.

e. Any agency determination under section (d) must be made in writing and must be promptly made publicly available and must include a formal statement of reasons for determining that the pronouncement under review does or does not constitute a ''legislative rule,'' or does or does not comply with 5 U.S.C. 553.

f. If the office fails to respond to a petition for review within the 60-day period, such an action shall constitute a denial of the petition on the basis that the Department pronouncement under review did not constitute a ''legislative rule.''

g. If any Department or office pronouncement is determined to not be a ''legislative rule'' under parts (d), (e) or (f), DOE shall promptly announce that the pronouncement has no binding force.

h. Any DOE pronouncement, action or inaction set out in parts (d), (e), (f) or (g), shall constitute final agency action under 5 U.S.C. 704, and shall be subject to review pursuant to 5 U.S.C. 702.

i. For purposes of this rule, no matter how styled or when issued and irrespective of any other Department determination, the issuance of any ''legislative rule'' by any office operating within the Department shall be deemed final agency action under 5 U.S.C. 704.

Section 4: Definitions

a. For purposes of this rule, the term ''legislative rule'' means any pronouncement or action from any DOE office that purports to:

i. Impose legally binding duties on entities outside the DOE;

ii. Impose new requirements on entities outside DOE;

iii. Create binding standards by which DOE will determine compliance with existing statutory or regulatory requirements; or

iv. Adopt a position on the binding duties of entities outside DOE that is new, that is inconsistent with existing regulations, or that otherwise effects a substantive change in existing law;

b. For purposes of this rule, the term ''interested person'' has the same meaning used in 5 U.S.C. 553, 555; *provided that* a person may be ''interested'' regardless of whether they would otherwise have standing under Article III of the United States Constitution to challenge an agency action.[3]

[3] *See Animal Legal Def. Fund, Inc.* v. *Vilsack,* 237 F. Supp. 3d 15, 21 (D.D.C. 2017) (Cooper, J.) (a party may be an ''interested person'' under the APA even without Article III standing).

E. Benefits of the Rule

The proposed rule furthers the policy objectives of the OMB Bulletin and Memo, the Sessions and Brand Memos, and the Department's own regulatory reform efforts, but it also addresses the significant limitations of those reforms. The proposed rule will establish DOE's position that all binding guidance is unlawful, and where DOE must act at the behest of Congress to promulgate rules that will have the force of law, it may only do so through APA notice-and-comment procedures.

Substantively, many of the proposed rule's edicts are found either in existing law or the OMB Bulletin, the OMB Memo, and Sessions and Brand Memos. Consistent with these sources, Section 4(a) adopts a comprehensive definition of the term ''legislative rule,'' which accurately encompasses the binding and coercive nature of such agency action, regardless of how it might be styled. Section 2(b) also adopts clear rules for how DOE actions must be undertaken and prohibits improper attempts at evading more formal rulemaking procedures.

The proposed rule also fixes the gaps in those other policy statements. First, and most significantly, as a final rule, the proposed rule is binding and may not be rescinded at will. Section 2(a) directs that DOE may not bypass formal procedures when issuing legislative rules. Section 2(b) further sets out mandatory requirements for informal Department action. Section 2(c) also forbids improper coercive action. To that end, this section prohibits the Department from considering a party's decision to abstain from non-binding suggestions in guidance as somehow constituting evidence of a violation of an actual legal obligation, or as a basis for instituting an enforcement action. Section 2(d) prohibits the Department from applying any agency's legislative rules that do not conform to 5 U.S.C. 553. Finally, Section 2(e) prohibits the Department from defending the validity of improper agency guidance, whether or not it was promulgated within DOE. These requirements are binding on the covered entities.

Critically, this proposed rule also creates a means to enforce these requirements, which applies to both new rules and those already in existence. Section 3 empowers interested parties to alert DOE to improper guidance, whenever issued, and it allows DOE or office to rescind such action without complication. This provision efficiently allows those most affected by agency action to share their institutional knowledge with DOE, and it also allows the DOE to correct improper actions efficiently.

But if this voluntary process falls short, Section 3 also allows an interested person the opportunity to petition for judicial review. If DOE believes that its action is appropriate under this rule, it need only say so pursuant to Section 3(d) and explain why its action does not constitute improper legislative rulemaking. Sections 3(d), (e), (f) and (h) set out a process by which a court may decide this legal issue on the merits. Sections 3(g) and (h) also resolve the difficult finality question that commonly allows improper legislative rulemaking to evade judicial oversight. Section 3(g) designates DOE's

decision on a petition for review as final, thus establishing a concrete cause of action. Section 3(h), meanwhile, resolves the problem that may exist when agency action is improperly binding, but nevertheless evades review because it is not yet final, by deeming any binding action necessarily one that is also final.*

VI. Conclusion

Americans should never be ''at the mercy'' of the whims of administrative agencies, set out in extralegal and extortionate ''guidance'' for approved behavior. Hamburger, *supra,* at 260. Purportedly binding rules masquerading as guidance are unlawful and unconstitutional and are among the very worst threats to liberty perpetrated by the administrative state. The Department of Energy should enact clear rules that respect the limits set by the Constitution, the APA, and all other statutes applicable to DOE regarding procedures for promulgating substantive, legislative rules. The Department should therefore prohibit the issuance, reliance on, or defense of improper agency guidance, and promulgate the proposed rule set out in this Petition.

Sincerely,

Steven M. Simpson,
Senior Litigation Counsel.

Mark Chenoweth,
General Counsel.

New Civil Liberties Alliance, 1225 19th Street NW, Suite 450, Washington, DC 20036, *mark.chenoweth@ncla.legal*, (202) 869–5210.

[FR Doc. 2019–20540 Filed 9–25–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0660; Airspace Docket No. 18–AWP–13]

RIN 2120–AA66

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend two high altitude United States Area Navigation (RNAV) Air Traffic Service (ATS) routes (Q–13 and Q–15), establish one high altitude RNAV ATS route (Q–174), and establish five low altitude RNAV ATS routes (T–338, T–357, T–359, T–361, and T–363) in the western United States. The proposed Q and T routes will facilitate the movement of aircraft to, from, and through the Las Vegas terminal area. Additionally, the routes will promote operational efficiencies for users and provide connectivity to current and proposed RNAV enroute procedures while enhancing capacity for adjacent airports.

DATES: Comments must be received on or before November 12, 2019.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1 (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2019–0660; Airspace Docket No. 18–AWP–13 at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.*

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

FOR FURTHER INFORMATION CONTACT: Kenneth Ready, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers (FAA Docket No. FAA–2019–0660; Airspace Docket No. 18–AWP–13) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2019–0660; Airspace Docket No. 18–AWP–13.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and

* NCLA gratefully acknowledges the contribution of former Senior Litigation Counsel Rick Faulk to this petition.

phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the office of the Western Service Center, Operations Support Group, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Background

The Las Vegas Metroplex Project developed Performance Based Navigation (PBN) routes involving the Los Angeles Air Route Traffic Control Center (ARTCC) and the Las Vegas Approach Control (TRACON). The airports considered in the Las Vegas Metroplex were McCarran International Airport (KLAS), Henderson Executive Airport (KHND), North Las Vegas Airport (KVGT), and Boulder City Municipal Airport (KBVU). Nellis Air Force Base (KLSV—a Department of Defense [DoD] facility) also has an impact on Las Vegas operations, and was involved in the Metroplex design process.

The Metroplex design team considered numerous alternatives in the development of the proposed ATS routes For each individual concept, the team went through an iterative design process, considering alternative lateral and vertical paths, various speed and altitude restrictions, alternative leg types, different segregation options, and various charting considerations. The development of new PBN procedures was particularly challenging due to constraints created by an abundance of DoD/Special Use Airspace (SUA), National Parks, terrain, and interactions between airport traffic flows. In the development of procedures, the team elected to provide the most benefit for the widest range of users.

The proposed new T and Q-routes, as well as the amended Q-routes, would support the strategy to transition the NAS from a ground-based navigation and radar based system to a satellite-based PBN system. The airway proposals in this NPRM are designed to work hand-in-hand with the upcoming Las Vegas Metroplex terminal procedures. The proposed Q and T routes will facilitate the movement of aircraft to, from, and through the Las Vegas Terminal Area. Taking advantage of the capabilities of the advanced flight management systems in modern aircraft, these Q and T routes would serve to reduce air traffic control (ATC) sector complexity, increase NAS capacity, reduce pilot-to-air traffic controller communications, and allow aircraft to be cleared to their cruising altitude and flight planned route more expeditiously.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to amend United States RNAV ATS routes Q–13 and Q–15 and establish United States RNAV ATS routes Q–174, T–338, T- 357, T–359, T–361, and T–363 as part of the Las Vegas Metroplex Project. Full route descriptions are detailed in the proposed amendments to 14 CFR part 71 set forth below.

The proposed amended ATS routes are as follows:

Q–13: Q–13 currently extends from PRFUM, AZ, waypoint (WP) to PAWLI, OR, WP. The proposed amended route would begin at El Paso, TX, VORTAC (ELP) and end at PAWLI, OR, WP. The route would be extended approximately 180 miles to the southeast of PRFUM, AZ, WP to the El Paso, TX, VORTAC. The VERNO, AZ, WP; NABOB, AZ, WP; Drake, AZ, VORTAC (DRK); and WOTRO, AZ, WP would be added prior to PRFUM, AZ WP. The HOUZZ, NV; FUULL, NV, and SKANN, AZ, WPs would be added between PRFUM, AZ, WP and the LOMIA, NV, WP. No proposed changes to the ATS route after LOMIA, AZ, WP. Moving Q–13 to the west and beginning the route at El Paso, TX, VORTAC (ELP) will segregate overflight traffic on Q–13 from McCarran International Airport (KLAS) arrival and departure traffic on the new KLAS COKTL Standard Terminal Arrival Route (STAR) and KLAS JOHKR Standard Instrument Departure (SID). By segregating the Q-route from inbound and outbound traffic, KLAS departures can be assigned requested altitudes sooner. This will also allow Oakland ARTCC to deliver KLAS arrival traffic to Los Angeles ARTCC at higher altitudes than current state, and will provide the opportunity for optimized profile descents.

Q–15: Q–15 currently extends from CHILY, AZ, FIX to LOMIA, NV, WP. The proposed amended route would add SOTOO, NV; HOUZZ, NV; FUULL, NV; and SKANN, NV, WPs between DOVEE, NV and LOMIA, NV, WPs. The purpose of this routing is to segregate overflight traffic on Q–15 from Las Vegas McCarran (KLAS) arrival and departure traffic.

The proposed new ATS routes are as follows:

Q–174: Q–174 would extend between the NTELL, CA, WP to the FLCHR, NV, WP. Q–174 will provide connectivity from the California Bay Area airports to Las Vegas McCarran and North Las Vegas airports. This route will also provide an efficient path to navigate around active special use airspace and facilitate arrival sequencing to Las Vegas McCarran and satellite airports.

T–338: T–338 would extend between the DSIRE, NV, WP to the BOEGY, AZ, WP. T–338 will provide a lateral path for arrivals and departures to the North Las Vegas Airport (KVGT), Boulder City Municipal Airport (KBVU) and McCarran International Airport (KLAS). Additionally, it will serve propeller aircraft arriving at KVGT and KLAS from points east or that are departing from KVGT and KLAS to points east.

T–357: T–357 would extend between the KONNG, NV, WP to the DSIRE, NV, WP. T–357 will provide a predictable and repeatable path for overflights through the Las Vegas TRACON airspace and serve as an arrival/departure airway for North Las Vegas Airport (KVGT), Henderson Executive Airport (KHND), Boulder City Municipal Airport (KBVU) and McCarran International Airport (KLAS) aircraft.

T–359: T–359 would extend between the DANBY, CA, WP to the DSIRE, NV, WP. T–359 will provide a predictable and repeatable path for overflights through the Las Vegas TRACON airspace and serve as an arrival/departure airway for North Las Vegas Airport (KVGT), Henderson Executive Airport (KHND), Boulder City Municipal Airport (KBVU) and McCarran International Airport (KLAS) aircraft. T–359 will reduce the current requirement for air traffic control facilities to issue radar vectors or itinerant routing for North Las Vegas Airport (KVGT) arrivals/departures or overflights.

T–361: T–361 would extend between the BOEGY, AZ, WP to the Mormon Mesa, NV, VORTAC (MMM). T–361 will provide a predictable and repeatable flight path for aircraft flying through the Las Vegas TRACON airspace and to serve as an arrival/departure airway for McCarran International Airport (KLAS), North Las Vegas Airport (KVGT), Boulder City Municipal Airport (KBVU) and Henderson Executive Airport (KHND). T–361 will reduce the current

requirement for air traffic control facilities to issue radar vectors or itinerant routing for KLAS and KHND.

T–363: T–363 would extend between the DICSA, NV, FIX to the Mormon Mesa, NV, VORTAC (MMM). T–363 will provide a predictable and repeatable path for propeller-driven arrivals and departures to and from Henderson Executive Airport (KHND), Boulder Municipal City Airport (KBVU), and Las Vegas McCarran International Airport to and from points north and northeast.

United States Area Navigation Routes are published in paragraph 2006 and 6011 of FAA Order 7400.11D dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The United States Area Navigation Routes listed in this document will be subsequently published in the Order.

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

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

Paragraph 2006 United States Area Navigation Routes.

* * * * *

Q–13 El Paso, TX (ELP) to PAWLI, OR [Amended]

El Paso, TX (ELP)	VORTAC	(Lat. 31°48′ 57.28″ N, long. 106°16′ 54.78″ W)
VERNO, AZ	FIX	(Lat. 34°15′ 38.47″ N, long. 109°37′ 37.98″ W)
NABOB, AZ	FIX	(Lat. 34°19′ 40.60″ N, long. 111°18′ 53.90″ W)
Drake, AZ (DRK)	VORTAC	(Lat. 34°42′ 09.19″ N, long. 112°28′ 49.23″ W)
WOTRO, AZ	WP	(Lat. 35°10′ 07.89″ N, long. 113°19′ 15.68″ W)
PRFUM, AZ	WP	(Lat. 35°30′ 24.46″ N, long. 113°56′ 34.85″ W)
HOUZZ, NV	WP	(Lat. 36°36′ 43.75″ N, long. 116°36′ 37.60″ W)
FUULL, NV	WP	(Lat. 37°16′ 52.93″ N, long. 117°10′ 13.96″ W)
SKANN, NV	WP	(Lat. 37°22′ 52.68″ N, long. 117°15′ 54.53″ W)
LOMIA, NV	WP	(Lat. 39°13′ 11.57″ N, long. 119°06′ 22.95″ W)
RUFUS, CA	WP	(Lat. 41°26′ 00.00″ N, long. 120°00′ 00.00″ W)
PAWLI, OR	WP	(Lat. 43°10′ 48.00″ N, long. 120°55′ 50.00″ W)

* * * * *

Q–15 DOVEE, NV to LOMIA, NV [Amended]

CHILY, AZ	WP	(Lat. 34°42′ 48.61″ N, long. 112°45′ 42.27″ W)
DOVEE, NV	WP	(Lat. 35°26′ 51.07″ N, long. 114°48′ 00.94″ W)
SOTOO, NV	WP	(Lat. 36°17′ 22.55″ N, long. 116°13′ 14.12″ W)
HOUZZ, NV	WP	(Lat. 36°36′ 43.75″ N, long. 116°36′ 37.60″ W)
FUULL, NV	WP	(Lat. 37°16′ 52.93″ N, long. 117°10′ 13.96″ W)
SKANN, NV	WP	(Lat. 37°22′ 52.68″ N, long. 117°15′ 54.53″ W)
LOMIA, NV	WP	(Lat. 39°13′ 11.57″ N, long. 119°06′ 22.95″ W)

* * * * *

Q174 NTELL, CA to FLCHR, NV [New]

NTELL, CA	WP	(Lat. 36°53′ 58.99″ N, long. 119°53′ 22.21″ W)
CABAB, CA	WP	(Lat. 37°16′ 36.00″ N, long. 118°43′ 12.00″ W)
TTMSN, CA	WP	(Lat. 37°21′ 11.49″ N, long. 117°40′ 54.51″ W)
SKANN, NV	WP	(Lat. 37°22′ 52.68″ N, long. 117°15′ 54.53″ W)
FLCHR, NV	WP	(Lat. 37°06′ 02.27″ N, long. 116°52′ 31.36″ W)

* * * * *

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–338 DSIRE, NV to BOEGY, AZ [New]

DSIRE, NV	WP	(Lat. 36°13′ 40.62″ N, long. 115°14′ 26.15″ W)
LNDIN, NV	WP	(Lat. 36°13′ 03.54″ N, long. 114°50′ 39.84″ W)
WYLND, NV	WP	(Lat. 36°09′ 26.64″ N, long. 114°24′ 58.20″ W)
BOEGY, AZ	WP	(Lat. 36°05′ 21.17″ N, long. 114°03′ 33.41″ W)

* * * * *

T–357 KONNG, NV to DSIRE, NV [New]

KONNG, NV	WP	(Lat. 35°27′ 39.39″ N, long. 114°57′ 02.15″ W)
DICSA, NV	FIX	(Lat. 35°52′ 05.33″ N, long. 115°02′ 15.10″ W)
WANDR, NV	WP	(Lat. 36°05′ 33.54″ N, long. 115°06′ 40.87″ W)
DSIRE, NV	WP	(Lat. 36°13′ 40.62″ N, long. 115°14′ 26.15″ W)

T–359 DANBY, CA to DSIRE, NV [New]

DANBY, CA	FIX	(Lat. 35°18′ 41.17″ N, long. 115°47′ 09.11″ W)

DICSA, NV	FIX	(Lat. 35°52′ 05.33″ N, long. 115°02′ 15.10″ W)
RAATT, NV	WP	(Lat. 36°04′ 42.74″ N, long. 115°13′ 04.33″ W)
DSIRE, NV	WP	(Lat. 36°13′ 40.62″ N, long. 115°14′ 26.15″ W)
T–361 BOEGY, AZ to MORMON MESA, NV [New]		
BOEGY, AZ	WP	(Lat. 36°05′ 21.17″ N, long. 114°03′ 33.41″ W)
PUTTT, AZ	WP	(Lat. 35°50′ 09.62″ N, long. 114°40′ 35.63″ W)
DICSA, NV	FIX	(Lat. 35°52′ 05.33″ N, long. 115°02′ 15.10″ W)
WANDR, NV	WP	(Lat. 36°05′ 33.54″ N, long. 115°06′ 40.87″ W)
LNDIN, NV	WP	(Lat. 36°13′ 03.54″ N, long. 114°50′ 39.84″ W)
SHIEK, NV	WP	(Lat. 36°24′ 00.96″ N, long. 114°27′ 01.91″ W)
Mormon Mesa, NV, (MMM)	VORTAC	(Lat. 36°46′ 09.31″ N, long. 114°16′ 38.83″ W)
T–363 DICSA, NV, to Mormon Mesa, NV (MMM) [New]		
DICSA, NV	FIX	(Lat. 35°52′ 05.33″ N, long. 115°02′ 15.10″ W)
PUTTT, AZ	WP	(Lat. 35°50′ 09.62″ N, long. 114°40′ 35.63″ W)
SHIEK, NV	WP	(Lat. 36°24′ 00.96″ N, long. 114°27′ 01.91″ W)
MORMON MESA, NV (MMM)	VORTAC	(Lat. 36°46′ 09.31″ N, long. 114°16′ 38.83″ W)

Issued in Washington, DC, on September 18, 2019.

Scott M. Rosenbloom,

Acting Manager, Airspace Policy Group.

[FR Doc. 2019–20716 Filed 9–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0034; Airspace Docket No. 19–ASW–1]

RIN 2120–AA66

Proposed Revocation of Class E Airspace; Alpine, TX: Withdrawal

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); withdrawal.

SUMMARY: The FAA is withdrawing the NPRM published in the **Federal Register** on August 12, 2019, to amend Class E airspace extending upward from 700 feet above the surface at Alpine-Casparis Municipal Airport, Alpine, TX.

DATES: As of September 26, 2019 the proposed rule published on August 12, 2019, at 84 FR 39784, is withdrawn.

FOR FURTHER INFORMATION CONTACT: Christopher Southerland, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5900.

SUPPLEMENTARY INFORMATION:

History

On August 12, 2019 (84 FR 39784), the FAA published in the **Federal Register** an NPRM proposing to modify Class E airspace extending upward from 700 feet above the surface at Alpine, TX, due to the decommissioning of the Brewster County non-directional beacon (NDB).

FAA's Conclusions

The NPRM is being withdrawn due to this being a duplicate of a previous NPRM that was published in the **Federal Register** on February 20, 2019 (84 FR 5016).

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Withdrawal

■ Accordingly, pursuant to the authority delegated to me, the NPRM published in the **Federal Register** on August 12, 2019 (84 FR 39784) [FR Doc. 2019–0034] is hereby withdrawn.

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

Issued in Fort Worth, Texas, on September 20, 2019.

Johanna Forkner,

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

[FR Doc. 2019–20931 Filed 9–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 232

[Docket No. FR 6022–C–02]

RIN 2502–AJ46

Federal Housing Administration (FHA): Section 232 Healthcare Facility Insurance Program—Memory Care Residents; Correction

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Proposed rule; correction.

SUMMARY: On September 13, 2019, HUD published a proposed rule regarding its Section 232 Healthcare Facility Insurance Program. This document corrects the preamble to the proposed rule by revising an incorrect footnote and providing citations for three other footnotes.

DATES: This correction is effective September 26, 2019. The public comment due date remains November 12, 2019.

FOR FURTHER INFORMATION CONTACT: With respect to this supplementary document, contact Aaron Santa Anna, Acting Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 7th Street SW, Room 10238, Washington, DC 20410; telephone number 202–708–1793 (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 at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

Correction

In proposed rule FR Doc. 2019–19778, beginning on page 48321 in the issue of September 13, 2019, make the following corrections, in the Supplementary Information section.

1. On page 48322 in the 1st column, revise footnote 3 to read as follows:

''[3] Overview of Assisted Living, published by the American Association of Homes and Services for the Aging, American Seniors Housing Association, Assisted Living Federation of American, National Center for Assisted Living, and National Investment Center for the Seniors Housing & Care Industry (2009). *https://www.ahcancal.org/ncal/facts/Documents/09%202009%20Overview%20of%20Assisted%20Living%20FINAL.pdf.*''

2. On page 48322 in the 1st column, add footnote 4 to read as follows:

''[4] Long-Term Care Services in the United States: 2013 Overview Vital and Heath Statistics, Series 2, no 37 Center for Disease Control and Prevention, National Center for Health Statistics, U. S. Department of Health and Human Services p. 39 *https://www.cdc.gov/nchs/data/nsltcp/long_term_care_services_2013.pdf.*''

3. On page 48322 in the 2nd column, add footnote 5 to read as follows:

''[5] 42 CFR 483.90(e). *https://www.govinfo.gov/content/pkg/CFR-2017-title42-vol5/pdf/CFR-2017-title42-vol5-sec483-90.pdf.*''

4. On page 48322 in the 2nd column, add footnote 6 to read as follows:

''[6] Compendium of Residential Care and Assisted Living Regulations and Policy: 2015 Edition06/15/2015, Office of The Assistant Secretary for Planning and Evaluation, U.S. Department of Health & Human Services, *https://aspe.hhs.gov/basic-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition.*''

Dated: September 20, 2019.

Aaron Santa Anna,

Acting Associate General Counsel for Legislation and Regulations.

[FR Doc. 2019–20834 Filed 9–25–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[Docket ID: DOD–2019–HA–0090]

RIN 0720–AB76

TRICARE; Reserve and Guard Family Member Benefits; Early Eligibility TRICARE and Transitional Assistance Management Program for Certain Reserve Component Members; Extended TRICARE Program Coverage for Certain National Guard Members

ACTION: Proposed rule.

SUMMARY: This rulemaking proposes changes to implement provisions of the National Defense Authorization Act for Fiscal Year 2017 (NDAA–17) to continue TRICARE program coverage for certain members of the National Guard and their dependents during certain disaster response duty. This applies discretionary authority broadened by NDAA–17 to propose expansion of the TRICARE Reserve and Guard Family Benefits program to all families of Reserve Component (RC) members on active duty for more than 30 days, except for the families of RC members performing active Guard and Reserve (AGR) duty for a period of 180 consecutive days or more. This rulemaking also proposes to expand both early eligibility TRICARE coverage and Transitional Assistance Management Program (TAMP) coverage to RC members on active duty for some pre-planned missions.

DATES: Written comments received at the address indicated in the **ADDRESSES** section by November 25, 2019 will be accepted.

ADDRESSES: You may submit comments, identified by docket number and/or Regulation Identifier Number (RIN) number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Brian Smith, Defense Health Agency, TRICARE Health Plan, telephone (303) 676–3729.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

Guardsmen on full-time National Guard duty under § 502(f) of 32 U.S.C. 502(f) who were called to state active duty (SAD) for disaster response duty, lost their premium-free TRICARE coverage. This rule implements authority under 10 U.S.C. 1076f (added by § 711 of NDAA–17 (Pub. L. 114–328)) and proposes to continue TRICARE coverage to these members of the National Guard (NG) and their eligible family members, upon request of the state/territory on a fully reimbursable basis. The TRICARE Guard and Reserve Family Benefits (TRGFB) program has successfully eased the transition for RC families to and from TRICARE since its inception under demonstration authority in September 2001. Section 748(b) of NDAA–17 extends TRGFB to eligible family members of any RC member who is on active duty for more than 30 days, amending prior legislation that required the active duty be in support of a contingency operation. Transition has also been eased by early

eligibility TRICARE coverage that started in 2004, which is also when the long-standing TAMP program had its period of coverage extended to 180 days. Section 511 of NDAA–18 expands eligibility for these programs to more RC members and their families under recently amended statutes.

II. Continued TRICARE Program Coverage (§ 199.3)

Prior to § 711 of NDAA–17, premium-free TRICARE coverage terminated for members of the NG on full-time NG duty (FTNGD) under 502(f) of title 32, when they commenced state active duty (SAD) including response to certain disasters upon a call to duty by the state/territory. There is no federal statutory entitlement to premium-free health care at Department of Defense (DoD) expense during SAD since it is a state responsibility and not federal responsibility. However, performing SAD does not disqualify them from TRICARE Reserve Select 10 U.S.C. 1076f. Section 711 of NDAA–17 authorizes the state/territory request TRICARE coverage to continue when NG members transfer from FTNGD to SAD in response to certain disasters and reimburse the DoD for all health care received by NG and their family members in military treatment facilities or purchased from civilian providers.

III. Expansion of TRICARE Reserve and Guard Family Benefits Program (§ 199.14)

Prior to § 748(b) of NDAA–17, discretionary authority to pay non-network, TRICARE authorized providers up to 115% of the CHAMPUS Maximum Allowable Charge (CMAC) contained in 10 U.S.C. 1079(h)(4)(C)(ii) applied only to families of RC sponsors who had been activated for more than 30 days in support of a contingency operation as defined in 10 U.S.C. 101(a)(13). In contrast, prior discretionary authority to waive the TRICARE deductible (10 U.S.C. 1095d(a) added by § 714 of NDAA–99 (Pub. L. 106–65)) never contained the limitation that the RC sponsor's activation to be ''in support of a contingency operation.'' For consistency, during the demonstration and continuing in the permanent program to the present, the Department aligned these provisions by offering both features only to families of RC sponsors who had been activated for more than 30 days in support of a contingency operation.

Together, these two features comprise the TRICARE Reserve and Guard Family Benefits program that help ensure timely access to healthcare and maintain clinically appropriate continuity of healthcare to family members of activated RC members, appropriately limit the out-of-pocket expenses for those family members, and remove potential barriers to healthcare access by families in order to improve the morale and retention of RC members.

This proposed rule applies discretionary authority broadened by § 748(b) of NDAA–17 to expand both the increased payment to providers feature and the waiver of deductible feature to all families of RC members on active duty for more than 30 days, except for the families of RC members performing AGR duty for a period of 180 consecutive days or more (as defined in 10 U.S.C. 101(d)(6)); including full-time support (FTS) members of the U.S. Navy Reserve and U.S. Marine Corps Reserve. While AGR members are in the Selected Reserve, their current and future and medical benefits as well as their retirement benefits compare to the full-time Active Components. Adding these features to their current medical benefits would make their medical benefit better than their Active Component colleagues. Additionally, the career path of an AGR member has the potential for twenty years of cumulative active service leading to a regular retirement (10 U.S.C. chapter 367 [Army], chapter 571 [Navy and Marine Corps], and chapter 867 [Air Force]) with medical eligibility immediately upon retirement, rather the non-regular retirement common to RC members (10 U.S.C. subtitle E, part II) that delays medical eligibility until the RC sponsor reaches age 60. Because AGR members, and their eligible family members, have benefits comparable to members on active duty, and their eligible family members, the Department sees the authority of § 748(b) of NDAA–17 as inapplicable to their circumstances.

A. *Waiver of deductible* (§ 199.4(f)(2)(i)(H)). Eligible family members of RC sponsors called or ordered to active duty for more than 30 days and who are enrolled in TRICARE Select would not be responsible for paying the annual deductible under TRICARE Select associated with their sponsor's qualifying active duty. Considering that many may have already paid annual deductibles under their health plan prior to enrolling in TRICARE Select, waiving this annual deductible appropriately limits out-of-pocket expenses for many RC family households.

B. *Increased payment to providers* (§ 199.14(j)(1)(i)(E)). This feature increases TRICARE payments up to 115 percent of the CMAC, for TRICARE covered outpatient care received from a TRICARE authorized provider who does not participate (accept assignment) under TRICARE. This helps make it possible for RC family members to continue seeing civilian providers with whom they might have established relationships (*i.e.* access) while promoting clinically appropriate continuity of care. Section 748(b) of NDAA–17 expanded the discretionary authority for increased TRICARE payments to providers by removing the limitation from the statute (10 U.S.C. 1079(h)(4)(C)(ii)) that had required the RC sponsor's activation be ''in support of a contingency operation.''

IV. Expansion of Early Eligibility TRICARE and TAMP to Certain RC Members

Section 511 of NDAA–18 amended 10 U.S.C. 1074(d)(2) to expand both early eligibility TRICARE and TAMP coverage to RC members called or ordered to active duty for pre-planned missions under 10 U.S.C. 12304b. Previously, law provided these benefits to RC members (and their eligible family members) only in conjunction with a call or order to active duty for more than 30 days in support of a contingency operation (10 U.S.C. 101(a)(13)(B)). Until enactment of § 511, duty for pre-planned missions had not been included in the discretionary authority for early eligibility TRICARE and TAMP benefits.

The definition for contingency operation includes military duty under 10 U.S.C. 101(a)(13)(A) and (B), but § 511 amendment specifies duty under subparagraph (B) in particular for both early eligibility TRICARE and TAMP. In addition to a contingency operation under subparagraph (B), this rule proposes to offer these benefits for duty described under subparagraph (A) as well: Military duty designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force.

A. *Early Eligibility TRICARE* (§ 199.3(b)(5)(i)). Certain RC members who are issued delayed-effective-date orders for active duty of more than 30 days for a preplanned mission or in support of a contingency operation, would receive up to 180 days of early eligibility TRICARE coverage for themselves and their eligible family members beginning on the later of the date of the issuance of such order or 180 days before the date on which the period of active duty is to commence under such order. In addition to member readiness, this early eligibility TRICARE contributes to family

readiness by providing a period of time for the family to adjust in advance to TRICARE coverage before the RC member's reporting date for activation.

B. *Transitional Assistance Management Program* (§ 199.3(e)(ii)). TAMP extends TRICARE eligibility for 180 days after separation from active duty so individuals have a generous amount of time to make arrangements for other health coverage for themselves and their families. In addition to RC members activated for more than 30 days in support of a contingency operation, RC members separating from active duty for a preplanned mission under 10 U.S.C. 12304b would gain TAMP coverage for themselves and their eligible family members.

V. Regulatory Analysis

We developed this rule after considering numerous statutes and Executive Orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes or E.O.s.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) 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 (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 rule has been designated as a ''not significant'' regulatory action, and not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget (OMB) under the requirements of these Executive Orders.

Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.'' This proposed rule is not expected to be subject to the requirements of this Executive Order because it is not significant under Executive Order 12866.

1. Costs

By removing the requirement that the disaster response duty be federal in order for Guardsmen to be eligible for TRICARE coverage, the States may see an increase of costs to be reimbursed to DoD. These additional costs, however, are expected to be de minimis because this expansion of eligibility to State disaster response duty will only impact a very small portion of the Guard population. These minimal additional costs are incurred at the request of the State for TRICARE coverage of Guardsmen, and upon the agreement that those costs be reimbursed to DoD. For this reason, States allocate health care funding and programs for Guardsmen and their families during State disaster response duty. Because States would fully reimburse the DoD for the cost of TRICARE coverage under § 711 of NDAA–17, there is an assumption of zero net cost impact to DoD.

Estimated costs to the Department with providing early eligibility TRICARE and TAMP coverage, as well as extending the existing deductible waiver and balance billing protection for all families of reservists utilizing TRICARE Select coverage to the entitled populations identified, is a total of $146 million from calendar years 2019 through 2023 (an average of $29.2 million a year); $73.3 million associated with § 748(b) of NDAA–17 and $72.7 million associated with § 511 of NDAA–18.

We anticipate costs to the Government for administrative start-up fees from the managed care support contractors to be $230,290. These start-up costs will be incorporated in contracts and absorbed by DoD. This estimate was based on the contract modifications regarding impact assessment and requirements developments ($47,880), Information Technology systems updates ($26,085), and administrative services the Managed Care Support Contractors ($156,325) would need to conduct to support these enhanced benefits. The calculations are below.

Under the third generation of TRICARE contracts (T3) for the TRICARE Overseas Program Managed Care Support Contractor (MCSC), the estimated cost regarding assessment and requirements development for the subcontractor were derived from an hourly rate of $56 at the level of effort (LOE) of 80 hours equals $4,480 ($56 hourly wage *80 hours), and for the primary MCSC, an hourly rate of $124 at 80 hours equals $9,920 ($124 hourly wage * 80 hours). Additionally for the subcontractor, estimated costs with adjusted administrative services were LOE of 270 hours at $124 an hour equals $33,480 ($124 hourly wage * 270 hours), and for IT start-up to support the additional benefit and population, the estimate was allocated at 50% of 235 hours at $111 an hour equals $26,085 ($111 hourly wage * 235 hours).

Under the fourth generation of TRICARE Contracts (T17) for MCSCs, the estimated cost regarding assessment and requirements development for the subcontractor in each of the East and West Regions were derived from an hourly rate of $56 at the LOE of 80 hours and for the primary MCSCs, an hourly rate of $74 at 80 hours equals $5,920 ($124 hourly wage * 80 hours) for the East Region and an hourly rate of $124 at 80 hours equals $9,920 ($124 hourly wage * 80 hours) for the West Region. Additionally for the subcontractors, estimated costs with adjusted administrative services were at a LOE of 270 hours at $56 an hour equals $15,120 ($56 hourly wage * 270 hours) for the East Region and 270 hours at $124 an hour equals $33,480 ($124 hourly wage * 270 hours) for the West Region. For IT start-up to support the additional benefit and population in each Region, the estimate was allocated at 50% of 470 hours at $111 an hour equals $26,085 [($111 hourly wage * 470 hours)/2] for the East Region and allocated at 100% of 470 hours at $140 an hour equals $65,800 ($140 hourly wage * 470 hours) for the West Region.

2. Benefits

This rule proposes revisions to the requirements and procedures for all eligible family members of Reserve Component (RC) members activated more than 30 days who utilize the TRICARE Select program, proposes to expand Early TRICARE eligibility and TAMP to those RC members, and their eligible family members, who receive delay-effective-date active duty orders for more than 30 days in support of a contingency operation or a preplanned mission, and proposes to provide TRICARE program benefits to those Guardsmen, and their eligible family members, who were on Title 32, 502f Active Guard/Reserve orders and receive state active duty orders in support of a natural disaster.

3. Alternatives

In proposing this rule, we have considered two alternatives:

a. *Alternative 1:* No Action. Failure to implement this rule will mean that TRICARE regulations are not in compliance with the changes mandated by TRICARE statutory provisions.

b. *Alternative 2:* Next Best Action. The next best alternative is to waive the annual deductible within the first CY of an activation only, for family members of RC members activated more than 30 days while in a continuous period of active duty who utilize TRICARE Select coverage, and not waive the annual deductible for subsequent CY years; per activation lasting more than 12 months or less than 12 months that carries into a second calendar year. While this would provide an estimated cost savings to the Department of $6.6 million from the proposed costing, the potential of exposing this beneficiary population to other annual deductibles under similar coverage with private insurance is likely. This course of action is not preferred.

B. Congressional Review Act (5 U.S.C. 801, et seq.)

Under the Congressional Review Act, a major rule may not take effect until at least 60 days after submission to Congress of a report regarding the rule. A major rule is one that would have an annual effect on the economy of $100 million or more or have certain other impacts. This rule is not a major rule under the Congressional Review Act.

C. 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. This rule will not impose any impacts on any small entities. This means that there will be no economic impacts on any small entities. Therefore, the Department of Defense under 5 U.S.C. 601–612 certifies that this rule will not have a significant economic impact on a substantial number of small entities.

D. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 in the **FOR FURTHER INFORMATION CONTACT** section of this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business.

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 million in 1995 (adjusted for inflation) or more in any 1 year. Although this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Collection of Information

The Paperwork Reduction Act (PRA) (44 U.S.C. 3501–3520) applies to collections of information using identical questions posed to, or reporting or recordkeeping requirements imposed on, ten or more members of the public. This rule does not impose requirements under the PRA.

G. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This proposed rule does not have federalism implications that warrant the preparation of a federalism assessment in accordance with Executive Order 13132.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Amend § 199.2(b) by adding the definition of ''Disaster response duty'' in alphabetical order to read as follows:

§ 199.2 Definitions.

* * * * *

(b) * * *

Disaster response duty. Duty performed by a member of the National Guard in State status pursuant to an emergency declaration by the Governor of the State (or, with respect to the District of Columbia, the mayor of the District of Columbia) in response to a disaster or in preparation for an imminent disaster.

* * * * *

■ 3. Amend § 199.3 by:

■ a. Revising paragraphs (b)(5)(i) and (b)(5)(iii)(A) introductory text;

■ b. Adding paragraph (b)(6); and

■ c. Revising paragraph (e)(1)(ii).

The revisions and additions read as follows:

§ 199.3 Eligibility.

* * * * *

(b) * * *

(5) * * *

(i) *Member.* A member who is issued a delayed-effective-date active-duty order for a period of more than 30 consecutive days that provides for active-duty service to begin under such order on a date after the date of the issuance of the order who is either:

(A) A member of a Reserve Component of the armed forces who is ordered to active duty in support of a contingency operation under 10 U.S.C. 101(a)(13); or

(B) A member of the Selected Reserve who is ordered to active duty for a preplanned mission under 10 U.S.C. 12304b.

* * * * *

(iii) * * *

(A) The eligibility established by paragraphs (b)(5)(i)(A) of this section shall begin on or after November 6, 2003 and the eligibility established by paragraphs (b)(5)(i)(B) of this section shall begin on or after December 12, 2017, and shall be effective on the later of the date that is:

* * * * *

(6) *Certain members of the National Guard during certain disaster response duty.* (i) *Member.* A member of the National Guard performing disaster response duty immediately following a period in which the member served on full-time National Guard duty under 32 U.S.C. 502(f).

(ii) *Dependents.* CHAMPUS eligible dependents under this paragraph (b)(6) are those identified in paragraphs (b)(2)(i) (except former spouses) and (b)(2)(ii) of this section.

(iii) *Effective date.* The authority established by paragraphs (b)(6)(i) and (ii) of this section shall begin on or after December 23, 2016.

(iv) *Termination date.* The eligibility established by paragraphs (b)(6)(i) and (ii) of this section terminates upon the date the state active duty for disaster response duty terminates, or any date prior, as determined by the State.

(v) In this part, the term ''disaster response duty'' is defined in § 199.2(b).

* * * * *

(e) * * *

(1) * * *

(ii) A member of a Reserve Component who is separated from active duty served more than 30 consecutive days to which called or ordered either in support of a contingency operation under 10 U.S.C. 101(a)(13) or for a preplanned mission under 10 U.S.C. 10304b.

* * * * *

■ 4. Amend § 199.4 by revising paragraph (f)(2)(i)(H) to read as follows:

§ 199.4 Basic program benefits.

* * * * *

(f) * * *

(2) * * *

(i) * * *

(H) The Director, Defense Health Agency, may waive the annual individual or family calendar year deductible for dependents of a Reserve Component member who is called or ordered to active duty for a period of more than 30 days, except for a Reserve Component member who is called or ordered to active Guard and Reserve duty for a period of more than 180 days as defined by 10 U.S.C. 101(d)(6).

* * * * *

■ 5. Amend § 199.14 by revising paragraph (j)(1)(i)(E) to read as follows:

§ 199.14 Provider reimbursement methods.

* * * * *

(j) * * *

(1) * * *

(i) * * *

(E) *Special rule for certain TRICARE Select enrollees.* In the case of TRICARE Select enrolled-dependent spouse or child, as defined in § 199.3(b)(2)(ii)(A) through (F) and (b)(2)(ii)(H)(*1*), (*2*), and (*4*), of a Reserve Component member serving on active duty pursuant to a call or order to active duty for a period of more than 30 days, except for a RC member who is called or ordered to active Guard and Reserve duty for a period of more than 180 days under 10 U.S.C. 101(d)(6), the Director, Defense Health Agency, may authorize non participating providers the allowable charge to be the CMAC level as established in paragraph (j)(l)(i)(B) of this section plus any balance billing amount up to the balance billing limit as referred to in paragraph (j)(l)(i)(C) of this section.

* * * * *

Dated: September 19, 2019.

Shelly E. Finke,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–20621 Filed 9–25–19; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 751

[EPA–HQ–OPPT–2019–0080; FRL–10000–22]

RIN 2070–AK34

Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h); Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: In the **Federal Register** of July 29, 2019, EPA proposed a rule concerning certain persistent, bioaccumulative, and toxic chemicals identified pursuant to section 6(h) of the Toxic Substances Control Act (TSCA). These five chemicals are: decabromodiphenyl ether; phenol, isopropylated phosphate (3:1), also known as tris(4-isopropylphenyl) phosphate; 2,4,6-tris(tert-butyl)phenol; hexachlorobutadiene; and pentachlorothiophenol. The proposed rule, if finalized, would restrict or prohibit manufacture (including import), processing, and distribution in commerce for many uses of four of these five chemical substances. EPA evaluated the uses of hexachlorobutadiene and proposed no regulatory action. For the other four, the proposal included recordkeeping requirements. Additional downstream notification requirements were proposed for phenol, isopropylated phosphate (3:1). This document extends the comment period for 31 days, from September 27, 2019, to October 28, 2019.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPPT–2019–0080 must be received on or before October 28, 2019.

ADDRESSES: Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of July 29, 2019 (84 FR 36728) (FRL–9995–76).

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Cindy Wheeler, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: 202–566–0484; email address: *wheeler.cindy@epa.gov;* or Peter Gimlin, National Program Chemicals Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: 202–566–0515; email address: *gimlin.peter@epa.gov.*

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

SUPPLEMENTARY INFORMATION: This document extends the public comment period established in the **Federal Register** document of July 29, 2019 (84 FR 36728) (FRL–9995–76). In that document, EPA proposed a rule concerning certain persistent, bioaccumulative, and toxic chemicals identified pursuant to section 6(h) of the Toxic Substances Control Act (TSCA). These five chemicals are: decabromodiphenyl ether; phenol, isopropylated phosphate (3:1), also known as tris(4-isopropylphenyl) phosphate; 2,4,6-tris(tert-butyl)phenol; hexachlorobutadiene; and pentachlorothiophenol. The proposed rule, if finalized, would restrict or prohibit manufacture (including import), processing, and distribution in commerce for many uses of four of these five chemical substances. EPA evaluated the uses of hexachlorobutadiene and proposed no regulatory action. For the other four, the proposal included recordkeeping requirements. Additional downstream notification requirements were proposed for phenol, isopropylated phosphate (3:1). More information on EPA's proposal can be found in the July 29, 2019 **Federal Register** document (84 FR 36728) (FRL–9995–76).

This document extends the comment period for 31 days, from September 27, 2019, to October 28, 2019. A lengthier extension of the comment period was requested. EPA agrees that an extension of the comment period is warranted, given the fact that the proposal and the extensive supporting materials address five separate chemical substances. However, in view of the statutory deadline requiring final action 18 months after issuance of the proposal and the considerable outreach EPA

conducted prior to issuing the proposal, the Agency has concluded that a 31-day extension is sufficient.

To submit comments, or access the docket, please follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of July 29, 2019 (84 FR 36728) (FRL–9995–76). If you have questions, consult the technical persons listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 40 CFR Part 751

Environmental protection, Chemicals, Export notification, Hazardous substances, Import certification, Reporting and recordkeeping.

Dated: September 19, 2019.

Alexandra Dapolito Dunn,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2019–20785 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 19–250, WC Docket No. 17–84, RM–11849; DA 19–913]

Comment Sought on WIA Petitions for Declaratory Ruling and Rulemaking and CTIA Petition for Declaratory Ruling

AGENCY: Federal Communications Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: In this document, the Wireless Telecommunications Bureau (WTB) and Wireline Competition Bureau (WCB) seek comment on a Petition for Rulemaking and a Petition for Declaratory Ruling filed by the Wireless Infrastructure Association (WIA), and a Petition for Declaratory Ruling filed by CTIA.

DATES: Interested parties may file comments on or before October 15, 2019; and reply comments on or before October 30, 2019.

ADDRESSES: You may submit comments and reply comments on or before the dates indicated in the **DATES** section above. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998). All filings must refer to RM–11849 and WT Docket No. 19–250, and if addressing issues relating to Section 224 of the Communications Act, WC Docket 17–84.

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/*.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction,
- MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty). For additional information, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For further information on this proceeding, contact David Sieradzki, Senior Counsel, Competition and Infrastructure Policy Division, WTB at (202) 418–1368 or by email to *David.Sieradzki@fcc.gov* or Mike Ray, Attorney Advisor, Competition Policy Division, WCB, at (202) 418–0357 or *michael.ray@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Public Notice released on September 13, 2019 (DA 19–913). The full text of the Public Notice is available for public inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. It also may be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street SW, Room CY–B402, Washington, DC 20554; the contractor's website, *http://www.bcpiweb.com*; or by calling (800) 378–3160, facsimile (202) 488–5563, or email *FCC@BCPIWEB.com*. Additionally, the complete item is available on the Federal Communications Commission's website at *http://www.fcc.gov*.

On August 27, 2019, the WIA filed a Petition for Rulemaking and a Petition for Declaratory Ruling. On September 6, 2019, CTIA filed a Petition for Declaratory Ruling. The petition for rulemaking requests additional rules to implement Section 6409 of the Spectrum Act, 47 U.S.C. 1455. The petitions for declaratory ruling request that the Commission clarify its rules implementing Section 6409 and Sections 1455 and 224 of the Communications Act. 47 U.S.C. 1455. WIA's Petition for Rulemaking asks the Commission to amend our rules to reflect that collocations requiring an expansion of the current site—within 30 feet of a tower site—qualify for relief under Section 6409(a) and to require that fees associated with eligible facilities requests under Section 6409 be cost-based. WIA's Petition for Declaratory Ruling asks the Commission to clarify (1) that Section 6409(a) and our related rules apply to all state and local authorizations; (2) when the time to decide an application begins to run; (3) what constitutes a substantial change under Section 6409(a); (4) that ''conditional'' approvals by localities violate Section 6409(a); and (5) that localities may not establish processes or impose conditions that effectively defeat or reduce the protections afforded under Section 6409(a).

CTIA's Petition for Declaratory Ruling asks the Commission to clarify the terms ''concealment element,'' ''equipment cabinet,'' and ''base station'' in our rules, and clarify that when an application is ''deemed granted'' under Section 6409, applicants may lawfully construct even if the siting authority has not issued construction permits. With respect to Section 224, CTIA asks the Commission to: (1) Determine that the definition of the term ''pole'' in Section 224 includes light poles; (2) conclude that utilities may not impose blanket prohibitions on access to certain parts of the pole; and (3) clarify that utilities may not ask attachers to accept terms and conditions that are inconsistent with the Commission's rules.

Federal Communications Commission.

Amy Brett,

Associate Chief, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau.

[FR Doc. 2019–20635 Filed 9–25–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 206

[Docket DARS–2019–0051]

RIN 0750–AK67

Defense Federal Acquisition Regulation Supplement: Exception to Competition for Certain Follow-On Production Contracts (DFARS Case 2019–D031)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2016 that modifies the criteria required to exempt from competition certain follow-on productions contracts.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before November 25, 2019, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2019–D031, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2019–D031'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2019–D031.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please ''DFARS Case 2019–D031'' on any attached documents.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2019–D031 in the subject line of the message.

○ *Fax:* 571–372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Carrie Moore, OUSD(A&S)DPC/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Moore, telephone 571–372–6093.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the DFARS to implement section 815 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016 (Pub. L. 114–92). Section 815 repeals and replaces section 845 of the NDAA for FY 1994 (Pub. L. 103–160; 10 U.S.C. 2371 note) with 10 U.S.C. 2371b, which modifies the authority of DoD to carry out certain prototype project transactions, as well as the criteria required to award an associated follow-on production contract to a participant in the transaction without the use of competitive procedures.

Currently, DFARS 206.001(S–70) states that the award of a follow-on production contract for products developed under the authority of 10 U.S.C. 2371 is excepted from the use of competitive procedures, if: (1) The prototype project transaction agreement includes a provision for a follow-on production contract; (2) specific criteria in 10 U.S.C. 2371 note are met; and (3) the quantities and prices for the follow-on contract do not exceed the quantities and target prices established in the transaction agreement. Section 815 no longer limits a follow-on production contract to quantities and target prices that were established in the transaction agreement. As a result, this rule removes the limitation from the requisite criteria to exempt a follow-on contract from competitive procedures in subpart 206.

II. Discussion and Analysis

This rule updates the DFARS 206.001(S–70) references to 10 U.S.C. 2371 to the equivalent parts of 10 U.S.C. 2371b; and, adds to the list of criteria necessary to award a follow-on production contract without competition, the requirement that—

- A written determination was executed by certain acquisition officials for transactions in excess of specified dollar values;
- The follow-on contract be awarded to participants in the transaction for the prototype project;
- Competitive procedures were used to selected the parties in the transaction; and
- The participants in the transaction successfully completed the prototype project provided for in the transaction.

The additions to the criteria do not implement new requirements. The statutes and regulations that implement DoD's other transaction authority permit DoD to provide, in the agreement, for the award of a follow-on production contract to a participant in the prototype project. Agreements made under DoD's other transaction authority are not subject to the Federal Acquisition Regulation or DFARS; however, the award of a follow-on production contract resulting from such a transaction agreement is subject to these acquisition regulations. As such, this addition serves as notice to contracting officers that: When the transaction agreement included a provision for the award of a follow-on production contract, and the award of the contract will be made without competition, certain criteria must be met for the follow-on contract award and certain criteria must have been met during the other transaction authority process. This addition will help ensure contracting officers are aware of and in compliance with DoD's other transactional authority when awarding a resultant follow-on production contract.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule only impacts the internal operating procedures of the agency. The rule does not impose any new requirements on contracts at or below the simplified acquisition threshold and for commercial items, including commercially available off-the-shelf items.

IV. Executive Orders 12866 and 13563

E.O.s 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This rule is not expected to be subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

VI. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic

impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule is not creating any new requirements for contractors or changing any existing policies and practices. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 815 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016 (Pub. L. 114–92), which repeals and replaces section 845 of the NDAA for FY 1994 (Pub. L. 103–160; 10 U.S.C. 2371 note) with 10 U.S.C. 2371b.

The objective of this proposed rule is to clarify for contracting officers the criteria that must be met to award, without competition, a follow-on production contract associated with a prototype project transaction agreement.

DoD does not collect data on the number of follow-on production contracts that are awarded annually and associated with a prototype project transaction agreement made under the authority of 10 U.S.C. 2371b; therefore, DoD is unable to estimate the number of small entities that will be impacted by this rule. However, DoD does not expect small business entities to be significantly impacted by this rule, because the rule does not change any existing processes or impose any additional burdens. Instead, the rule simply clarifies instructions to contracting officers on the criteria that must be met in order to award an associated follow-on production contract without using competitive procedures.

This proposed rule does not include any new reporting, recordkeeping, or other compliance requirements for small businesses.

This rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known alternatives available to meet the objectives of the statutes.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities. DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2019–D031) in correspondence.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 206

Government procurement.

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

Therefore, 48 CFR part 206 is proposed to be amended as follows:

PART 206—COMPETITION REQUIREMENTS

■ 1. The authority citation for 48 CFR part 206 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 C chapter 1.

■ 2. Amend section 206.001 by revising paragraph (S–70) to read as follows:

206.001 Applicability.

* * * * *

(S–70) Also excepted from the competition requirements of FAR part 6 are follow-on production contracts for products developed pursuant to the ''other transactions'' authority of 10 U.S.C. 2371b for prototype projects when—

(1) The other transaction agreement includes provisions for a follow-on production contract;

(2) The follow-on contract will be awarded to the participants in the other transaction for the prototype project;

(3) Competitive procedures are used for the selection of parties for participation in the transaction;

(4) The participants in the transaction successfully completes the prototype or sub-prototype project provided for in the transaction; and

(5)(i) There is a written determination that—

(A) The requirements of 10 U.S.C. 2371b(d) are met; and

(B) The use of the authority of 10 U.S.C. 2371b is essential to promoting the success of the prototype project; and

(ii)(A) For actions in excess of $100 million, but not in excess of $500 million including all options, the determination is executed by the senior procurement executive; and

(B) For actions in excess of $500 million including all options, the determination is—

(*1*) Executed by the Under Secretary of Defense for Research and Engineering or the Under Secretary of Defense for Acquisition and Sustainment; and

(*2*) Provided to the congressional defense committees at least 30 days prior to contract award.

[FR Doc. 2019–20555 Filed 9–25–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 210, 212, 215, and 234

[Docket DARS–2019–0050]

RIN 0750–AK65

Defense Federal Acquisition Regulation Supplement: Market Research and Value Analysis for the Determination of Price Reasonableness (DFARS Case 2019–D027)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement several sections of the National Defense Authorization Act for Fiscal Year 2017 to address how contracting officers may require the offeror to submit relevant information to support market research for price analysis and allow an offeror to submit information relating to the value of a commercial item to aid in the determination of the reasonableness of the price of such item.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before November 25, 2019, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2019–D027, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2019–D027'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2019–D027.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please ''DFARS Case 2019–D027'' on any attached documents.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2019–D027 in the subject line of the message.

○ *Fax:* 571–372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Amy G. Williams, OUSD(A&S)DPC/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To

confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise the DFARS to implement sections 871 and 872 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328). Section 871 modifies 10 U.S.C. 2377, Preference for acquisition of commercial items, to address how contracting officers may require the offeror to submit relevant information to support market research for price analysis for the acquisition of commercial items. Section 872 modifies 10 U.S.C. 2379, Requirement for determination by Secretary of Defense and notification to Congress before procurement of major weapon systems as commercial items, to allow an offeror to submit information or analysis relating to the value of a commercial item.

II. Discussion and Analysis

This proposed rule implements the requirements of section 871 at DFARS 212.209(a), which addresses the determination of price reasonableness when acquiring commercial items. The focus of this requirement is that agencies shall conduct market research to support the determination of price reasonableness for commercial items. The rule proposes to add the reference to 10 U.S.C. 2377 and directs contracting officers to use: The information submitted under DFARS 234.7002(d) when acquiring major weapon systems as commercial items in accordance with 10 U.S.C. 2379; or, in the case of other items, other relevant information as described in DFARS 212.209.

This proposed rule implements the requirements of section 872 in DFARS subpart 234.70, which addresses the acquisition of major weapon systems as commercial items. DFARS 234.7002(d) addresses the relevant information necessary to make a determination of price reasonableness. To implement section 872, this rule proposes a new paragraph (d)(5) at DFARS 234.7002, which does not impose a requirement, but allows an offeror to submit information or analysis relating to the value of a commercial item, to aid in the determination of the reasonableness of the price of such item. A contracting officer may consider such information or analysis in addition to the information submitted pursuant to other paragraphs in DFARS 234.7002(d). To assist in understanding value analysis, a definition of ''value analysis'' is added at DFARS 234.7001. A cross-reference is also added at DFARS 210.001.

This rule does not impose additional requirements on offerors. The information required is consistent with the existing requirement at DFARS 215.404–1(b)(iii)(D), which requires an offeror to submit other relevant information that can serve as the basis for determining the reasonableness of price. The DFARS provision 252.215–7010, Requirements for Certified Cost or Pricing Data and Data other Than Certified Cost or Pricing Data, is the existing mechanism for obtaining the minimum information necessary to permit a determination that the proposed price is fair and reasonable, to include the requirements of DFARS 215.404–1(b).

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule does not propose to add or modify any provisions or clauses or the prescriptions for any provisions or clauses.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This rule is not expected to be an E.O. 13771 regulatory action, because this rule is not significant under E.O. 12866.

VI. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

This proposed rule is issued in order to implement sections 871 and 872 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328).

The objective of this rule is to address the use of market research and value analysis to support the determination of price reasonableness when acquiring commercial items. The legal basis of the rule is sections 871 and 872 of the NDAA for FY 2017.

Based on data from the Federal Procurement Data System, DoD awarded 38,000 new commercial contracts to 16,429 small entities in FY 2018. There are an additional unknown number of small entities that submitted offers and did not receive awards (estimated at several thousand).

This rule does not impose any new reporting, recordkeeping, or other compliance requirements on small entities. DFARS 252.215–7010, Requirements for Certified Cost or Pricing Data, and Data Other Than Certified Cost or Pricing Data, already requires offerors to provide information necessary to determine that the price is fair and reasonable. Offerors are allowed, but not required, to submit information or analysis relating to the value of a commercial item for consideration by the contracting officer in determining price reasonableness.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

DoD did not identify any significant alternatives that would minimize or reduce the significant economic impact, because there is no significant impact on small entities.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 610 (DFARS Case 2019–D027), in correspondence.

VII. Paperwork Reduction Act

The rule does not contain any new information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35) or impact any existing information collection requirements.

List of Subjects in 48 CFR Parts 210, 212, 215 and 234

Government procurement.

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 210, 212, 215, and 234 are proposed to be amended as follows:

■ 1. The authority citation for 48 CFR parts 210, 212, and 234 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 210—MARKET RESEARCH

■ 2. Amend section 210.001 by adding paragraph (a)(iii) to read as follows:

210.001 Policy.

(a) * * *

(iii) Use market research, where appropriate, to inform price reasonableness determinations (see 212.209 and 234.7002).

PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 3. Amend section 212.209 by—

■ a. Revising paragraph (a); and

■ b. In paragraph (b), removing ''market research pursuant to paragraph (a) of this section,'' and adding ''market research'' in its place.

The revision reads as follows:

212.209 Determination of price reasonableness.

(a) In accordance with 10 U.S.C. 2377(d), agencies shall conduct or obtain market research to support the determination of the reasonableness of price for commercial items contained in any bid or offer submitted in response to an agency solicitation. To the extent necessary to support such market research, the contracting officer for the solicitation—

(1) In the case of major weapon systems items acquired under 10 U.S.C. 2379, shall use information submitted under 234.7002(d); and

(2) In the case of other items, may require the offeror to submit other relevant information as described in this section.

* * * * *

PART 215—CONTRACTING BY NEGOTIATION

■ 4. Amend section 215.403–3 by adding paragraph (c) to read as follows:

215.403–3 Requiring data other than certified cost or pricing data.

* * * * *

(c) *Commercial items.* For determination of price reasonableness of major weapon systems acquired as commercial items, see 234.7002(d).

PART 234—MAJOR SYSTEMS ACQUISITION

■ 5. Revise section 234.7001 to read as follows:

234.7001 Definitions.

As used in this subpart—

Major weapon system means a weapon system acquired pursuant to a major defense acquisition program.

Value analysis means a systematic and objective evaluation of the function of a product and its related costs, whose purpose is to ensure optimum value.

■ 6. Amend section 234.7002 by—

■ a. Revising the paragraph (d) introductory text; and

■ b. Adding a new paragraph (d)(5).

The revision and addition read as follows:

234.7002 Policy.

* * * * *

(d) *Relevant information.* This section implements 10 U.S.C. 2379. See also DFARS 212.209(a).

* * * * *

(5) An offeror may submit information or analysis relating to the value of a commercial item to aid in the determination of the reasonableness of the price of such item. Value analysis is used to understand what features or characteristics of a given product or service, or offered terms and conditions warrant consideration as having legitimate value to the Government. A contracting officer may consider such information or analysis in addition to the information submitted pursuant to paragraphs (d)(1) and (d)(2) of this section. For additional guidance on use of value analysis see PGI 234.7002(d)(5).

[FR Doc. 2019–20558 Filed 9–25–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 622 and 635

RIN 0648–BI61

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Atlantic Highly Migratory Species; Coral and Coral Reefs of the Gulf of Mexico; Amendment 9

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of availability (NOA); request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) has submitted Amendment 9 to the Fishery Management Plan (FMP) for the Coral and Coral Reefs of the Gulf of Mexico (Amendment 9) to the FMP for review, approval, and implementation by NMFS. Amendment 9, if approved by the Secretary of Commerce, and an associated framework action to the FMP would establish new habitat areas of particular concern (HAPCs), some of which include a prohibition of the deployment of bottom-tending gear, and modify current fishing regulations in the Gulf of Mexico (Gulf). The purpose of Amendment 9 and the framework action is to protect coral essential fish habitat in the Gulf.

DATES: Written comments on Amendment 9 must be received by November 25, 2019.

ADDRESSES: You may submit comments on Amendment 9 identified by ''NOAA–NMFS–2017–0146'' by either of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0146,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Lauren Waters, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 9 and the framework action may be obtained from *www.regulations.gov* or the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/amendment-9-coral-habitat-areas-considered-management-gulf-mexico.* Amendment 9 includes an

environmental impact statement, fishery impact statement, regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis.

FOR FURTHER INFORMATION CONTACT: Lauren Waters, NMFS Southeast Regional Office, telephone: 727–824–5305; email: *lauren.waters@noaa.gov*. Karyl Brewster-Geisz, NMFS Highly Migratory Species Division, telephone: 301–427–8503; email: *karyl.brewster-geisz@noaa.gov*.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or FMP amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, publish an announcement in the **Federal Register** notifying the public that the FMP or amendment is available for review and comment.

The Council prepared the FMP being revised by Amendment 9, and if approved, Amendment 9 would be implemented by NMFS through regulations at 50 CFR parts 622 and 635 under the authority of the Magnuson-Stevens Act.

Background

The Magnuson-Stevens Act requires that each fishery management plan identify and describe essential fish habitat (EFH) and minimize, to the extent practicable, adverse effects on these habitats caused by fishing. The FMP describes coral EFH as those areas where managed corals exist. HAPCs are a subset of EFH that meet specified criteria identified at 50 CFR 600.818(a)(8). An area in which corals exist in sufficient numbers or diversity could be designated as an HAPC if it is significantly ecologically important, habitat that is sensitive to human-induced degradation, located in an environmentally stressed area, or considered rare in abundance. Corals and coral habitat are especially sensitive to human-induced degradation by fishing and non-fishing activities because of their unique life history. An HAPC designation by NMFS does not confer any additional specific protections to such designated areas, but can be used to focus management attention on those areas when considering measures to minimize adverse impacts from fishing.

In December 2014, the Council convened a Coral Working Group to discuss which areas in the Gulf may warrant specific protection for corals. The group identified numerous areas and existing HAPCs that may be in need of new or revised protection. In May 2015, the Council's Special Coral Scientific and Statistical Committee (SSC) and Coral Advisory Panel (AP) reviewed these areas along with members of the shrimp fishing community and recommended that the boundaries of some of the areas be refined based on available fishing information. In August 2016, the Council's Coral SSC, Coral AP, Shrimp AP, as well as Council invitees, which included royal red shrimp fishermen and bottom longline fishermen, provided input to the Council. These groups recommended that 15 areas be designated as HAPCs in which fishing with bottom-tending gear be prohibited and 8 areas be designated without any prohibitions on. Based on this input, the Council began developing Amendment 9.

In April 2018, based on a recommendation by the Council's SSC, the Council modified the alternatives in Amendment 9 to combine three previously proposed HAPCs in the southeastern Gulf that were separate but geographically close to one another into a single slightly smaller proposed HAPC. As a result, Amendment 9 recommends 13 new HAPCs that prohibit fishing with bottom-tending gear.

During subsequent discussions associated with Amendment 9, the Council decided to refine the fishing prohibition in the proposed and existing HAPCs. The Council determined that the broad definition of ''fishing'' in the Magnuson-Stevens Act might unnecessarily restrict activities that would have no impact on these HAPCs. Therefore, in August 2018, the Council approved a framework action that would modify the specific prohibitions on ''fishing with bottom-tending gear'' to ''deployment of bottom-tending gear'' for existing HAPCs listed in 50 CFR 622.74, except the Tortugas marine reserves HAPC, and those recommended in Amendment 9. Further, the Council recommended that ''deploy'' in this context be defined to mean that fishing gear is in contact with the water. In November 2018, the Council also requested that NMFS develop complimentary gear deployment prohibitions for Atlantic highly migratory species (HMS) fisheries in the Gulf (see 50 CFR part 635).

To provide a complete description of the proposed changes associated with Amendment 9, the discussion below includes the management actions in Amendment 9, as modified by the framework action. For ease of discussion, ''Amendment 9'' is used to refer to the combined actions.

Actions Contained in Amendment 9

Amendment 9 would establish 13 new HAPCs in the Gulf in which the deployment of certain bottom-tending gear would be prohibited, and establish 8 new HAPCs without fishing regulations. Amendment 9 would also prohibit the deployment of dredge fishing gear in existing Gulf HAPCs that are managed with fishing. NMFS and the Council are proposing these areas and fishing regulations to protect coral EFH in the Gulf.

HAPCs With Fishing Regulations

Amendment 9 would establish 13 HAPCs in which the deployment of specified bottom-tending gear would be prohibited. For purpose of the prohibition, fishing gear is ''deployed'' if any part of the gear is in contact with the water. The 13 proposed HAPCs are called West Florida Wall, Alabama Alps Reef, L & W Pinnacles and Scamp Reef (combined), Mississippi Canyon 118, Roughtongue Reef, Viosca Knoll 826, Viosca Knoll 862/906, AT 047, AT 357, Green Canyon 852, Southern Bank, Harte Bank, and within the existing Pulley Ridge boundary, and Pulley Ridge South Portion A. Pulley Ridge South Portion A is within the current Pulley Ridge South HAPC.

For these areas, excluding Pulley Ridge South Portion A, prohibitions on the following activities would apply year-round: deployment of bottom longline, bottom trawl, buoy gear as defined in 50 CFR 622.2, dredge, pot, or trap, and bottom anchoring by fishing vessels. The buoy gear defined in 50 CFR 622.2 is not the same as HMS buoy gear defined in 50 CFR 635.2. HMS buoy gear is not a bottom-tending gear.

Within the proposed Viosca Knoll 862/906 area, the proposed gear deployment prohibitions would not apply to a fishing vessel issued a Gulf royal red shrimp endorsement, as specified in 50 CFR 622.50(c) while fishing for royal red shrimp. The areas around this proposed HAPC are used to fish for royal red shrimp. Fishing for royal red shrimp occurs in deep waters and requires a few miles of continuous forward movement to lift the nets up in the water column to the vessel. Therefore, requiring that these nets be out of the water would effectively prevent the use of an area much larger than the proposed HAPC. The exemption would allow royal red shrimp fishermen to continue the historic practice of lifting the nets off the bottom but keeping them in the water as they travel through this area.

Within the proposed Pulley Ridge South Portion A area, the following prohibitions would apply year-round: Deployment of a bottom trawl, buoy gear as defined in 50 CFR 622.2, dredge, pot, or trap, and bottom anchoring by fishing vessels. Pulley Ridge South Portion A would not include a restriction on the deployment of bottom longline gear to allow fishing that has historically occurred in this area to continue. Amendment 9 would not change any other boundaries or regulations within the existing Pulley Ridge HAPC.

The Council concluded that the exception for royal red shrimp fishing in the proposed Viosca Knoll 862/906 area and for bottom longline fishing in the proposed Pulley Ridge South Portion A area was unlikely to adversely affect the habitat. Both types of fishing have occurred in the respective areas for over a decade without causing significant harm.

Dredge Fishing Prohibition

Currently, only some existing HAPCs in the Gulf have fishing regulations that prohibit dredge fishing within the designated areas. Amendment 9 would prohibit the deployment of dredge fishing gear in all existing HAPCs in the Gulf in which other bottom-tending gear are already prohibited. Dredge fishing is most commonly used to harvest shellfish and is not known to occur in the Gulf. Therefore, this proposed management measure would not restrict any known fishing activity in the Gulf, but increase consistency of management measures across HAPCs with fishing regulations.

HAPCs Without Fishing Regulations

Amendment 9 would also establish eight HAPCs with no associated fishing regulations. The Council determined that fishing regulations in these eight proposed HAPCs are unnecessary because they have no known fishing activity that occurs within them, partly because the areas are located in very deep water (greater than 300 meters). The proposed HAPCs without fishing regulations in Amendment 9 are South John Reed, Garden Banks 299, Garden Banks 535, Green Canyon 140 and 272 (combined), Green Canyon 234, Green Canyon 354, Mississippi Canyon 751, and Mississippi Canyon 885. Although fishing impacts were not identified as a concern in these eight areas, establishing these HAPCs would inform the public that the Council considers these areas to be of particular importance and could help guide NMFS' review of non-fishing impacts during EFH consultations.

Proposed Rule for Amendment 9

A proposed rule to implement Amendment 9, as modified by the framework action, has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with Amendment 9, the FMP for the Coral and Coral Reefs of the Gulf of Mexico, the 2006 Consolidated Atlantic HMS FMP and its amendments, the Magnuson-Stevens Act, and other applicable laws. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council has submitted Amendment 9 for Secretarial review, approval, and implementation. Comments on Amendment 9 must be received by November 25, 2019. Comments received during the respective comment periods, whether specifically directed to Amendment 9 or to the proposed rule will be considered by NMFS in the decision to approve, disapprove, or partially approve Amendment 9. Comments received after the comment periods will not be considered by NMFS in this decision.

All comments received by NMFS on Amendment 9 or the proposed rule during their respective comment periods will be addressed in the final rule.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 18, 2019.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019–20549 Filed 9–25–19; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 84, No. 187

Thursday, September 26, 2019

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

September 23, 2019.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725 17th Street NW, Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by October 28, 2019. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: Export Fruit Regulations—Export Apple Act (7 CFR part 33) and Export Grape and Plum Act (7 CFR part 35).

OMB Control Number: 0581–0143.

Summary of Collection: Fresh apples and grapes grown in the United States and shipped to any foreign destination must meet minimum quality and other requirements established by regulations issued under the Export Apple Act (7 CFR part 33) and the Export Grape and Plum Act (7 CFR part 35). These Acts were designed to promote the foreign trade of the United States in apples and grapes; to protect the reputation of these American-grown commodities; and to prevent deception or misrepresentation of the quality of such products moving in foreign commerce. Plum provisions in the marketing order were terminated in 1991. The regulation issued under the Export Grape and Plum Act (7 CFR part 35) cover fresh grapes grown in the United States and shipped to foreign destinations, except Canada and Mexico.

Need and Use of the Information: Each shipment must be inspected by Federal or Federal-State Inspection Program (FSIP) to determine if a lot of apples or grapes intended for export meet the applicable quality requirements. FSIP inspectors use the Export Form Certificate to certify inspection of the shipment for exports bound for non-Canadian destinations. The USDA's Agricultural Marketing Services uses the certificates for compliance purposes. The inspector records specific information on the certificate relating to the quality of the fruit, the quantity shipped, the date shipped, vessel identification, and the intended foreign destination of the fruit. Export carriers are required to keep on file for three years copies of inspection certificates for apples and grapes.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 200.

Frequency of Responses: Recordkeeping; Reporting; On occasion, Monthly, Annually.

Total Burden Hours: 9,311.

Kimble Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–20923 Filed 9–25–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

September 20, 2019.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on 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.

Comments regarding this information collection received by October 28, 2019 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information

displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Institute of Food and Agriculture

Title: Veterinary Medicine Loan Repayment Program (VMLRP).

OMB Control Number: 0524–0050.

Summary of Collection: In January 2003, the National Veterinary Medical Service Act (NVMSA) was passed into law adding section 1415A to the National Agricultural Research, Extension, and Teaching Policy Act of 1997. This law established a new Veterinary Medicine Loan Repayment Program (VMLRP) (7 U.S.C. 3151a) authorizing the Secretary of Agriculture to carry out a program of entering into agreements with veterinarians under which they agree to provide veterinary services in veterinarian shortage situations. The purpose of the program is to assure an adequate supply of trained food animal veterinarians in shortage situations and provide USDA with a pool of veterinary specialists to assist in the control and eradication of animal disease outbreaks. The National Institute of Food and Agriculture (NIFA) will designate geographic and practice areas that have a shortage of food supply veterinarians in order to carry out the VMLRP goals of strengthening the nation's animal health infrastructure and supplementing the Federal response during animal health emergencies. NIFA will carry out NVMSA by entering into educational loan repayment agreements with veterinarians who agree to provide veterinary services in veterinarian shortage situation for a determined period of time. NIFA will collect information using the Shortage Situation Nomination Form, Application Form, Records and Reports, and Surveys

Need and Use of the Information: The information collected allows the National Institute of Food and Agriculture to request from VMLRP applicants' information related to eligibility, qualification, career interests, and recommendations necessary to evaluate their applications for repayment of educational indebtedness in return for agreeing to provide veterinary services in veterinarian shortage situations. The information will also be used to determine an applicant's eligibility for participation in the program. The information also allows the VMLRP to assess program processes and impact, make program improvements based on process feedback, and provide feedback to State Animal Health Officials on veterinarian shortage situations, which can aide them during the nomination process.

Description of Respondents: Individuals or households; Business or other for-profit.

Number of Respondents: 1,090.

Frequency of Responses: Reporting: Biennially.

Total Burden Hours: 11,658.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–20866 Filed 9–25–19; 8:45 am]

BILLING CODE 3410–09–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2019–0050]

Monsanto Company; Availability of Petition for Determination of Nonregulated Status of Cotton Genetically Engineered for Insect Resistance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service (APHIS) has received a petition from Monsanto Company seeking a determination of nonregulated status for cotton designated as MON 88702, which has been genetically engineered for resistance to certain insects, primarily *Lygus* spp. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. We are making the Monsanto petition available for review and comment to help us identify potential environmental and interrelated economic issues and impacts that APHIS may determine should be considered in our evaluation of the petition.

DATES: We will consider all comments that we receive on or before November 25, 2019.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2019-0050.*
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS–2019–0050, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

The petition and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2019-0050* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 7997039 before coming.

The petition is also available on the APHIS website at: *http://www.aphis.usda.gov/biotechnology/petitions_table_pending.shtml* under APHIS petition 19–091–01p.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Eck, Biotechnology Regulatory Services, APHIS, 4700 River Road, Unit 147, Riverdale, MD 20737–1236; (301) 851–3892, email: *cynthia.a.eck@usda.gov.*

SUPPLEMENTARY INFORMATION: Under the authority of the plant pest provisions of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered (GE) organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the submission procedures, format, and the information that must be included in the petition.

APHIS has received a petition (APHIS Petition Number 19–091–01p) from Monsanto Company (Monsanto) seeking a determination of nonregulated status for cotton designated as MON 88702, which has been genetically engineered for resistance to certain insects. The Monsanto petition states that this cotton is unlikely to pose a plant pest risk and, therefore, should not be a regulated article under APHIS' regulations in 7 CFR part 340.

As described in the petition, MON 88702 cotton was generated using *Agrobacterium*-mediated transformation with plasmid PV–GHIR508523 containing the *mCry51Aa2* expression cassette. The coding sequence *mCry51Aa2* produces a modified Cry51Aa2 insecticidal crystal (Cry) protein derived from *Bacillus thuringiensis* (*Bt*) that protects cotton against feeding damage caused by targeted hemipteran (*Lygus hesperus* and *Lygus lineolaris*) and thysanopteran (*Frankliniella* spp.) insect pests. MON 88702 cotton has been field tested in the continental United States and Puerto Rico over 8 years as authorized under APHIS permits and notifications. Field tests conducted under APHIS oversight allowed for evaluation in a natural agricultural setting while imposing measures to minimize the likelihood of persistence in the environment after completion of the tests. Data are gathered on multiple parameters and used by the applicant to evaluate agronomic characteristics and product performance. These and other data are used by APHIS to determine if the new variety poses a plant pest risk.

Paragraph (d) of § 340.6 provides that APHIS will publish a notice in the **Federal Register** providing 60 days for public comment for petitions for a determination of nonregulated status. On March 6, 2012, we published in the **Federal Register** (77 FR 13258–13260, Docket No. APHIS–2011–0129) a notice [1] describing our process for soliciting public comment when considering petitions for determinations of nonregulated status for GE organisms. In that notice we indicated that APHIS would accept written comments regarding a petition once APHIS deemed it complete.

In accordance with § 340.6(d) of the regulations and our process for soliciting public input when considering petitions for determinations of nonregulated status for GE organisms, we are publishing this notice to inform the public that APHIS will accept written comments regarding the petition for a determination of nonregulated status from interested or affected persons for a period of 60 days from the date of this notice. The petition is available for public review and comment, and copies are available as indicated under **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** above. We are interested in receiving comments regarding potential environmental and interrelated economic issues and impacts that APHIS may determine should be considered in our evaluation of the petition. We are particularly interested in receiving comments regarding biological, cultural, or ecological issues, and we encourage the submission of scientific data, studies, or research to support your comments.

After the comment period closes, APHIS will review all written comments received during the comment period and any other relevant information. Any substantive issues identified by APHIS based on our review of the petition and our evaluation and analysis of comments will be considered in the development of our decision making documents. As part of our decision making process regarding a GE organism's regulatory status, APHIS prepares a plant pest risk assessment to assess its plant pest risk and the appropriate environmental documentation—either an environmental assessment (EA) or an environmental impact statement (EIS)—in accordance with the National Environmental Policy Act (NEPA), to provide the Agency with a review and analysis of any potential environmental impacts associated with the petition request. For petitions for which APHIS prepares an EA, APHIS will follow our published process for soliciting public comment (see footnote 1) and publish a separate notice in the **Federal Register** announcing the availability of APHIS' EA and plant pest risk assessment.

Should APHIS determine that an EIS is necessary, APHIS will complete the NEPA EIS process in accordance with Council on Environmental Quality regulations (40 CFR part 1500–1508) and APHIS' NEPA implementing regulations (7 CFR part 372).

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 20th day of September 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–20961 Filed 9–25–19; 8:45 am]

BILLING CODE 3410–34–P

[1] To view the notice, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0129.*

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before October 28, 2019.

ADDRESSES: Comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (OIRA) in OMB within 30 days of this notice's publication by either of the following methods. Please identify the comments by ''OMB Control No. 3038–0099.''

- *By email addressed to: OIRAsubmissions@omb.eop.gov* or
- *By mail addressed to:* the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW, Washington DC 20503.

A copy of all comments submitted to OIRA should be sent to the Commodity Futures Trading Commission (the ''Commission'') by either of the following methods. The copies should refer to ''OMB Control No. 3038–0099.''

- *By mail addressed to:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581;
- By Hand Delivery/Courier to the same address; or
- Through the Commission's website at *http://comments.cftc.gov*. Please follow the instructions for submitting comments through the website.

A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting *http://RegInfo.gov*.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov*. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9

of the Commission's regulations.[1] The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Roger Smith, Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, (202) 418–5344; email: *RSmith@CFTC.gov,* and refer to OMB Control No. 3038–0099.

SUPPLEMENTARY INFORMATION:

Title: Process for a Swap Execution Facility or Designated Contract Market to Make a Swap Available to Trade (OMB Control No. 3038–0099). This is a request for extension of a currently approved information collection.

Abstract: The collection of information is needed to help determine which swaps should be subject to the trade execution requirement under Section 2(h)(8) of the Commodity Exchange Act pursuant to Section 723 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. A SEF or DCM that submits a determination that a swap is available to trade must address at least one of several factors to demonstrate that the swap is suitable for trading pursuant to the trade execution requirement. The Commission uses the collection of information to facilitate the application of the trade execution requirement and the requirements associated with methods of execution under parts 37 and 38 of the Commission's regulations.

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. On July 22, 2019, the Commission published in the **Federal Register** notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 84 FR 35102 (''60-Day Notice''). The Commission did not receive any comments on the 60-Day Notice.

Burden Statement: The Commission estimates the burden of reviewing the prescribed factors and data to make a determination for this collection to be 16 hours per response.

Respondents/Affected Entities: SEFs, DCMs.

Estimated Number of Respondents: 5.

Estimated Average Burden Hours per Respondent: 16.

Estimated Total Annual Burden Hours: 80.

Frequency of Collection: On occasion.

There are no capital costs or operating and maintenance costs associated with this collection.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: September 20, 2019.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2019–20888 Filed 9–25–19; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

DEPARTMENT OF DEFENSE

Department of the Air Force

Board of Visitors of the U.S. Air Force Academy; Notice of Federal Advisory Committee Meeting

AGENCY: Department of the Air Force, Board of Visitors of the U.S. Air Force Academy, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Board of Visitors (BoV) of the U.S. Air Force Academy (USAFA) will take place.

DATES: Open to the Public Thursday October 10, 2019 from 1:45 p.m. to 4:15 p.m. and Friday October 11, 2019 from 7:50 a.m. to 4:30 p.m. (Mountain Time).

ADDRESSES: United States Air Force Academy, Polaris Hall, Colorado Springs, CO.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Angela Caltagirone, (703) 692–4572, *angela.k.caltagirone.mil@mail.mil* or Mr. Daniel Anderson, (DFO), at (703) 693–9575, (703) 693–4244 (Facsimile), *daniel.l.anderson55.civ@mail.mil.*

SUPPLEMENTARY INFORMATION: This meeting is held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to review morale and discipline, social climate, athletics, diversity, curriculum and other matters relating to the USAFA.

Meeting Accessibility: Open to the public, subject to the availability of space. Registration of members of the public who wish to attend the meeting begins upon publication of this meeting notice and ends three business days (October 7) prior to the start of the meeting. All members of the public must contact Lt Col Angela Caltagirone at the phone number or email listed below in the section titled **FOR FURTHER INFORMATION CONTACT**. Seating is limited and is on a first-to-arrive basis. Attendees will be asked to provide their name, title, affiliation, and contact information to include email address and daytime telephone number to the point of contact (POC) listed in the **FOR FURTHER INFORMATION CONTACT** section. Any interested person may attend the meeting, file written comments or statements with the committee, or make verbal comments from the floor during the public meeting, at the times, and in the manner, permitted by the BoV.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the FACA, the public or interested organizations may submit written comments or statements to the BoV about its mission and/or the topics to be addressed in this public meeting. Written comments or statements should be submitted to the BoV Executive Secretary, Lt Col Caltagirone, via electronic mail, the preferred mode of submission, at the email address listed in the **FOR FURTHER INFORMATION CONTACT** section in the following formats: Adobe Acrobat or Microsoft Word. The comment or statement must include the author's name, title, affiliation, address, and daytime telephone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the BoV Executive Secretary at least five (5) business days (October 3) prior to the meeting so they may be made available to the BoV Chairman for consideration prior to the meeting. Written comments or statements received after this date (October 3) may not be provided to the BoV until its next meeting. Please note that because the BoV operates under the provisions of the FACA, as amended, all written comments will be treated as public documents and will be made available for public inspection.

Verbal Comments: Members of the public will be permitted to make verbal comments during the meeting only at the time and in the manner allowed herein. If a member of the public is interested in making a verbal comment at the open meeting, that individual

must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three (3) business days (October 7) in advance, via electronic mail, the preferred mode of submission, at the email address listed in the **FOR FURTHER INFORMATION CONTACT** section. The BoV DFO will log each request to make a comment, in the order received, and the DFO and BoV Chairman will determine whether the subject matter of each comment is relevant to the BoV's mission and/or the topics to be addressed in this public meeting. A period near the end of the meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described in this paragraph, will be allotted no more than five (5) minutes during this period, and will be invited to speak in the order in which their requests were received by the DFO. For the benefit of the public, rosters that list the names of BoV members and any releasable materials presented during the BoV meeting shall be made available upon request.

Adriane Paris,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2019–20891 Filed 9–25–19; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0124]

Agency Information Collection Activities; Comment Request; Accrediting Agencies Reporting Activities for Institutions and Programs—Database of Accredited Postsecondary Institution and Programs (DAPIP)

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 25, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0124. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov*. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Herman Bounds, 202–453–6128.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Accrediting Agencies Reporting Activities for Institutions and Programs—Database of Accredited Postsecondary Institution and Programs (DAPIP).

OMB Control Number: 1840–0838.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 6,678.

Total Estimated Number of Annual Burden Hours: 555.

Abstract: Sections 496(a)(7), (a)(8), (c)(7), and (c)(8) of the Higher Education Act (HEA), and federal regulations at 34 CFR 602.26 and 602.27(a)(6) and (a)(7) contain certain requirements for reporting by recognized accrediting agencies to the Department on the institutions and programs the agencies accredit. The proposed information collection outlines categories of terminology used by accrediting agencies to describe actions and statuses, and provides guidance to federally recognized accrediting agencies on the information to be reported to the Department under 34 CFR 602.26 and 602.27(a)(6) and (a)(7). Some of the reporting discussed is required; some is requested. This collection specifies which is which. It also discusses the channel for reporting this information, whether requested or required, and for reporting information the accrediting agency may wish to submit voluntarily to ensure that the Department's Database of Accredited Postsecondary Institutions and Programs is accurate and comprehensive.

Dated: September 23, 2019.

Kate Mullan,

PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–20918 Filed 9–25–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–78–000]

PennEast Pipeline Company, LLC; Notice of Availability of the Environmental Assessment for the Proposed Penneast Pipeline Project Amendment

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the PennEast Pipeline Project Amendment (Amendment Project), proposed by

PennEast Pipeline Company, LLC (PennEast) in the above-referenced docket. PennEast proposes to amend their certificate of public convenience and necessity for the previously approved PennEast Pipeline Project (Docket No. CP15–558–000) that was issued by the Commission on January 19, 2018. The Amendment Project would include four modifications to adjust certain aspects of the design, alignment, workspace, and construction methods for the PennEast Pipeline Project in Luzerne, Carbon, Monroe, and Northampton counties, Pennsylvania.

The EA assesses the potential environmental effects of the construction and operation of the Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed Project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, and U.S. Department of Agriculture—Natural Resources Conservation Service participated as cooperating agencies in the preparation of the EA. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis.

The Amendment Project would consist of the following four proposed modifications to the previously approved PennEast Pipeline Project, all in Pennsylvania:

- Saylor Avenue Realignment [Plains Township (Twp.), Luzerne County]—a 0.4-mile-long pipeline realignment between milepost (MP) 8.5R3 and MP 8.9R3 to address construction feasibility and land use impacts;
- Interstate 81 Workspace Adjustment (Plains Twp., Luzerne County)—a revised horizontal directional drill (HDD) design and workspace adjustment between MP 10.0R2 and 10.4R2 due to historic mines;
- Appalachian Trail PPL Electric Utilities Crossing Realignment (Lower Towamensing Twp., Carbon County, Eldred Twp., Monroe County, and Moore Twp., Northampton County)—a 5.5-mile-long pipeline re-route from MP 48.6R2 to MP 53.6R3 to collocate the crossing of the Appalachian National Scenic Trail along an existing utility corridor, relocation of the Blue Mountain Interconnect, and addition of a 0.5-mile-long, 4-inch-diameter Blue Mountain Lateral; and
- Freemansburg Avenue Realignment (Bethlehem Twp., Northampton County)—a 0.6-mile-long pipeline realignment between MP 69.7R3 and MP 70.8R3 and redesign of construction method from HDD to open cut to avoid karst topography.

The Commission mailed a copy of the *Notice of Availability* to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the Project area. The EA is only available in electronic format. It may be viewed and downloaded from the FERC's website (*www.ferc.gov*), on the Environmental Documents page (*https://www.ferc.gov/industries/gas/enviro/eis.asp*). In addition, the EA may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (*https://www.ferc.gov/docs-filing/elibrary.asp*), click on General Search, and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.* CP19–78). Be sure you have selected an appropriate date range. 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.

Any person wishing to comment on the EA may do so. Your comments should focus on the EA's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before 5:00pm Eastern Time on October 21, 2019.

For your convenience, there are three methods you can use to file your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov*. Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister*.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP19–78–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp*. Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. The Commission may grant affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp*.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–20914 Filed 9–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2614–039]

City of Hamilton, Ohio and American Municipal Power, Inc.; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Application Type:* Amendment of License.

b. *Project No.:* 2614–039.

c. *Date Filed:* September 9, 2019.

d. *Applicant:* City of Hamilton, Ohio and American Municipal Power.

e. *Name of Project:* Greenup Project.

f. *Location:* The Greenup Project is located at the U.S. Army Corps of Engineers Greenup Locks and Dam in Scioto County, Ohio, in the vicinity of the cities of Portsmouth, Ironton, and Wheelersburg, Ohio, and Huntington, West Virginia, on the Ohio River between Ohio and Kentucky.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Jim Logan, Executive Director of infrastructure, City of Hamilton, 345 High Street 4th Floor, Hamilton, Ohio 45011, (513) 785–7200; and Lisa McAlister, General Counsel for Regulatory Affairs, American Municipal Power, Inc., 1111 Schrock Road, Suite 100, Columbus, Ohio 43229; (614) 514–1113.

i. *FERC Contact:* Zeena Aljibury, (202) 502–6065, *zeena.aljibury@ferc.gov*

j. *Deadline for filing comments, motions to intervene, and protests:* 30 days from the issuance date of this notice by the Commission.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/doc-sfiling/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–2614–039. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears 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. *Description of Request:* The applicant proposes to amend the Greenup Project license to remove 10.06 miles of the existing 14.51 mile transmission line from the project. The licensee states that the 10.06 mile long transmission segment is not used solely to transmit power from the project to the interconnected grid and would remain part of the interconnected transmission system even if the project did not exist. Therefore, the licensee argues that this transmission segment does not qualify as a primary transmission line and does not need to be part of the licensed project.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above. Agencies may obtain copies of the application directly from the applicant.

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, Motions to Intervene, or Protests: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents: Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: September 19, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–20861 Filed 9–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14971–000]

Lock+™ Hydro Friends Fund XVIII, 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 XVIII, 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 Union City Dam Hydropower Project to be located at the U.S. Army Corps of Engineers' (Corps) Union City Dam on French Creek in Erie County, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters

owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new 30-foot-wide, 30-foot-deep, 160-foot-tall modular frame structure to be installed at the intake for the outlet pipe adjacent to the outlet tower, containing two turbine-generator units with a rated capacity of 1,200 kilowatts each; (2) a new switchgear and control room located in the modular structure; and (3) a new 13-kilovolt transmission line connecting the modular structure with a nearby existing electrical grid. The proposed project would have an annual generation of 10,500 megawatt-hours.

Applicant Contact: Wayne Crouse, Lock+™ Hydro Friends Fund XVIII, LLC, P.O. Box 43796, Birmingham, AL 35243; phone: 877–556–6566, ext. 709.

FERC Contact: Monir Chowdhury; phone: (202) 502–6736.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–14971–000.

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–14971) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: September 20, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–20912 Filed 9–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15004–000; Project No. 3820–000]

New Hampshire Renewable Resources, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 15004–000.

c. *Date Filed:* July 25, 2019.

d. *Submitted By:* New Hampshire Renewable Resources, LLC (New Hampshire Renewable).

e. *Name of Project:* Somersworth Hydroelectric Project.

f. *Location:* On the Salmon Falls River in Strafford County, New Hampshire and York County, Maine. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* 18 CFR 5.3 and 5.5 of the Commission's regulations.

h. *Potential Applicant Contact:* Ian Clark, Managing Member, New Hampshire Renewable Resources, LLC, 65 Ellen Ave., Mahopac, NY 10541; Phone at 914–297–7645, or email at *ianc@dichotomycapital.com.*

i. *FERC Contact:* John Baummer at (202) 502–6837; or *john.baummer@ferc.gov.*

j. The current license for the Somersworth Hydroelectric Project is held by Aclara Meters, LLC (Aclara) under Project No. 3820. On March 29, 2019, Aclara filed an application to surrender its license for the project after having previously filed, pursuant to 18 CFR 16.6, a notice of intent (NOI) to file an application to relicense the project. On April 26, 2019, the Commission, pursuant to 18 CFR 16.25(a), issued a notice soliciting potential new applicants for the project, which provided until July 25, 2019 for potential applicants to submit a pre-application document (PAD) and NOI, and until January 25, 2021 to submit a license application. In response to the solicitation notice, New Hampshire Renewable filed an NOI and PAD for the Somersworth Hydroelectric Project, pursuant to 18 CFR 5.5 and 5.6 of the Commission's regulations. The licensing proceeding is commencing under Project No. 15004.

k. New Hampshire Renewable filed its request to use the Traditional Licensing Process (TLP) on July 25, 2019, and provided public notice of the request to use the TLP on July 20, 2019. In a letter dated September 20, 2019, the Director of the Division of Hydropower Licensing approved New Hampshire Renewable's request to use the TLP.

l. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402 and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the New Hampshire and Maine State Historic Preservation Officers, as required by section 106 of the National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

m. With this notice, we are designating New Hampshire Renewable as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

n. New Hampshire Renewable filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission pursuant to 18 CFR 5.6 of the Commission's regulations.

o. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number P–15004 to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

p. New Hampshire Renewable states its unequivocal intent to submit an application for a license for Project No. 15004–000. Pursuant to 18 CFR 16.8, 16.9, 16.10, and 16.25, an application for a new license must be filed with the Commission at least 18 months from the date of filing of the NOI, *i.e.,* by January 25, 2021.

q. 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.

Dated: September 20, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–20913 Filed 9–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14970–000]

Lock+™ Hydro Friends Fund XVII, 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 XVII, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Tionesta Dam Hydropower Project to be located at the U.S. Army Corps of Engineers' Tionesta Dam on Tionesta Creek in Forest County, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new 30-foot-wide, 30-foot-deep, 160-foot-tall modular frame structure to be installed at the intake for the outlet pipe adjacent to the outlet tower, containing two turbine-generator units with a rated capacity of 1,400 kilowatts each; (2) a new switchgear and control room located in the modular structure; and (3) a new 13-kilovolt transmission line connecting the modular structure with a nearby existing electrical grid. The proposed project would have an annual generation of 12,260 megawatt-hours.

Applicant Contact: Wayne Crouse, Lock+™ Hydro Friends Fund XVII, LLC, P.O. Box 43796, Birmingham, AL 35243; phone: 877–556–6566, ext. 709.

FERC Contact: Monir Chowdhury; phone: (202) 502–6736.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–14970–000.

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–14970) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: September 20, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–20911 Filed 9–25–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0664; FRL–9999–05–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Commercial Ethylene Oxide Sterilization and Fumigation Operations (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Commercial Ethylene Oxide Sterilization and Fumigation Operations (EPA ICR Number 1666.11, OMB Control Number 2060–0283), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through November 30, 2019. Public comments were previously requested, via the **Federal Register**, on May 6, 2019 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before October 28, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0664, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person, at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Commercial Ethylene Oxide Sterilization and Fumigation Operations apply to both new and existing commercial ethylene oxide (E.O.) sterilization and fumigation facilities using one ton of E.O. (as defined in 40 CFR 63.361) after December 6, 1994. New facilities include those that commenced construction or reconstruction after the date of proposal. Owners and operators of these facilities are required to comply with reporting and record keeping requirements for the General Provisions (40 CFR part 63, subpart A), as well as

for the applicable standards in 40 CFR part 63, subpart O. This includes submitting notifications, performance test reports, and periodic reports, as well as maintaining records of continuous parameter monitoring data, any malfunctions, and equipment inspections. These reports are used by EPA to determine compliance with 40 CFR part 63, subpart O.

Form Numbers: None.

Respondents/affected entities: These standards apply to both new and existing commercial ethylene oxide (E.O.) sterilization and fumigation facilities using one ton of E.O. (as defined in 40 CFR 63.361) after December 6, 1994. New facilities include those that commenced construction or reconstruction after the date of proposal.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart O).

Estimated number of respondents: 128 (total).

Frequency of response: Initially, semiannually.

Total estimated burden: 9,480 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,800,000 (per year), which includes $698,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in the burden in this ICR compared to the previous ICR. The increase is based on an increase in the number of sources subject to the NESHAP due to continued growth in the industry. The increase in the number of sources is also reflected in an increase in operation and maintenance costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–20951 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2006–0525; FRL–9998–35–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Registration of Fuels and Fuel Additives: Health-Effects Research Requirements for Manufacturers (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Registration of Fuels and Fuel Additives: Health-Effects Research Requirements for Manufacturers (EPA ICR Number 1696.10, OMB Control Number 2060–0297) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through November 30, 2019. Public comments were previously requested via the **Federal Register** on May 21, 2019 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may 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.

DATES: Additional comments may be submitted on or before October 28, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2006–0525, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: James W. Caldwell, Compliance Division, Office of Transportation and Air Quality, Mail Code: 6406J, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 343–9303; fax number: (202) 343–2800; email address: *caldwell.jim@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: In accordance with the regulations at 40 CFR 79, Subparts A, B, C, and D, Registration of Fuels and Fuel Additives, manufacturers (including importers) of motor-vehicle gasoline, motor-vehicle diesel fuel, and additives for those fuels, are required to have these products registered by the EPA prior to their introduction into commerce. Registration involves providing a chemical description of the fuel or additive, and certain technical, marketing, and health-effects information. The development of health-effects data, as required by 40 CFR 79, Subpart F, is the subject of this ICR. The health-effects data will be used to determine if there are any products which have evaporative or combustion emissions that may pose an unreasonable risk to public health, thus meriting further investigation and potential regulation. This information is required for specific groups of fuels and additives as defined in the regulations.

Manufacturers may perform the research independently or may join with other manufacturers to share in the costs for each applicable group. Several research consortiums (groups of manufacturers) have been formed. The largest consortium, organized by the American Petroleum Institute (API), represents most of the manufacturers of baseline gasoline, baseline diesel fuel, baseline fuel additives, and the prominent non-baseline oxygenated additives for gasoline. The research is structured into three tiers of requirements for each group. Tier 1 requires an emissions characterization and a literature search for information on the health effects of those emissions. Voluminous Tier 1 data for gasoline and diesel fuel were submitted by API and others in 1997. Tier 1 data have been submitted for biodiesel, water/diesel emulsions, several atypical additives, and renewable gasoline and diesel fuels. Tier 2 requires short-term inhalation exposures of laboratory animals to emissions to screen for adverse health effects. Tier 2 data have been submitted for baseline diesel, biodiesel, and water/diesel emulsions. Alternative Tier 2 testing can be required in lieu of standard Tier 2 testing if EPA concludes that such testing would be more appropriate. EPA reached that conclusion with respect to gasoline and gasoline-oxygenate blends, and alternative requirements were established for the API consortium for baseline gasoline and six gasoline-oxygenate blends. Alternative Tier 2

requirements have also been established for the manganese additive MMT manufactured by the Afton Chemical Corporation (formerly the Ethyl Corporation). Tier 3 provides for follow-up research, at EPA's discretion, when remaining uncertainties as to the significance of observed health effects, welfare effects, and/or emissions exposures from a fuel or fuel/additive mixture interfere with EPA's ability to make reasonable estimates of the potential risks posed by emissions from a fuel or additive. To date, EPA has not imposed any Tier 3 requirements. Under regulations promulgated pursuant to Section 211 of the Clean Air Act, (1) submission of the health-effects information is necessary for a manufacturer to obtain registration of a motor-vehicle gasoline, diesel fuel, or fuel additive, and thus be allowed to introduce that product into commerce, and (2) the information shall not be considered confidential.

Form Numbers: None.

Respondents/affected entities: Manufacturers of motor-vehicle gasoline, motor-vehicle diesel fuel, and additives for those fuels.

Respondent's obligation to respond: Mandatory per 40 CFR 79, subpart F.

Estimated number of respondents: 2.

Frequency of response: On occasion.

Total estimated burden: 35,200 hours per year. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $3,697,000 per year, includes $597,000 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an increase of 17,600 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is based on input from an industry representative who stated that their actual literature review and Tier 2/Alternative Tier 2 costs were double the EPA estimate.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–20947 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0662; FRL–9998–10–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Gasoline Distribution Facilities (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Gasoline Distribution Facilities (40 CFR part 63, subpart R) (Renewal)'' (EPA ICR No. 1659.10, OMB Control No. 2060–0325), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through November 30, 2019. Public comments were previously requested, via the **Federal Register**, on May 6, 2019 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments on the information collection published May 6, 2016 at 84 FR 19777 may be submitted on or before October 28, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0662, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Gasoline Distribution Facilities (40 CFR part 63, subpart R) apply to existing and new: (1) Bulk gasoline terminals with throughputs greater than 75,700 liters/day; and (2) pipeline breakout stations. New facilities include those that commenced construction or reconstruction after the date of proposal.

Owners and operators of affected facilities are required to comply with reporting and/or recordkeeping requirements for the NESHAP General Provisions (40 CFR part 63, subpart A), as well as for the specific requirements at 40 CFR part 63, subpart R. This includes submitting initial notification reports, performance tests and periodic reports and results, maintaining records of the occurrence and duration of any startup, shutdown or malfunction in the operation of an affected facility or any period during which the monitoring system is inoperative, and submitting annual reports certifying area source status if an area source is within 50 percent of major source threshold criteria. These reports are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Owners or operators of gasoline distribution facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart R.).

Estimated number of respondents: 102 major source and 390 area sources (492 total).

Frequency of response: Annually, semiannually.

Total estimated burden: 15,900 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $2,160,000 (per year), which includes $305,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is no change in burden hours in this ICR compared to the previous ICR. The regulations have not changed over the past three years and are not anticipated to change over the next three years. The growth rate for the industry is very low, negative or non-existent. The decrease in costs is due to an adjustment in the number of respondents with O&M costs. A re-examination of the rule and background documents indicates that

the monitoring requirements and associated O&M costs apply only to the 87 major source bulk gasoline terminals.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–20945 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2006–0407; FRL–9994–21–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; EPA's ENERGY STAR Program in the Commercial and Industrial Sectors (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), EPA's ENERGY STAR Program in the Commercial and Industrial Sectors (EPA ICR Number 1772.08, OMB Control Number 2060–0347), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed revision of the ICR, which is currently approved through September 30, 2019. Public comments were previously requested via the **Federal Register** on December 13, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may 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.

DATES: Additional comments may be submitted on or before October 28, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2006–0407, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Cynthia Veit, Climate Protection Partnerships Division, (6202A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–9494; fax number: 202–343–2204; email address: *veit.cynthia@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: EPA created ENERGY STAR as a voluntary program to help businesses and individuals protect the environment through superior energy efficiency. The program focuses on reducing utility-generated emissions by reducing the demand for energy. In 1991, EPA launched the Green Lights Program to encourage corporations, state and local governments, colleges and universities, and other organizations to adopt energy-efficient lighting as a profitable means of preventing pollution and improving lighting quality. Since then, EPA has rolled Green Lights into ENERGY STAR and expanded ENERGY STAR to encompass organization-wide energy performance improvement, such as building technology upgrades, product purchasing initiatives, and employee training. At the same time, EPA has streamlined the reporting requirements of ENERGY STAR and focused on providing incentives for improvements (*e.g.,* ENERGY STAR Awards Program).

To join ENERGY STAR, organizations are asked to complete a Partnership Agreement that establishes their commitment to energy efficiency. Partners agree to undertake efforts such as measuring, tracking, and benchmarking their organization's energy performance by using tools such as those offered by ENERGY STAR; developing and implementing a plan to improve energy performance in their facilities and operations by adopting a strategy provided by ENERGY STAR; and educating staff and the public about their Partnership with ENERGY STAR, and highlighting achievements with the ENERGY STAR, where available. In addition, Partners and any other interested party can evaluate the efficiency of their buildings using EPA's online tools (*e.g.,* Portfolio Manager) and apply for recognition.

Form numbers: 5900–19, 5900–22, 5900–89, 5900–195, 5900–197, 5900–198, 5900–262, 5900–263, 5900–264, 5900–265, 5900–382, 5900–383, 5900–387, 5900–436 and 5900–437.

Respondents/affected entities: EPA's ENERGY STAR Program in the Commercial and Industrial Sectors.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 37,021 (total).

Frequency of response: One-time, annually, or on occasion.

Total estimated burden: 210,306 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $14,859,991 (per year), includes $5,034,450 in annualized capital or operation & maintenance costs.

Changes in the estimates: There is a decrease of 43,778 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due in part to program enhancements and clarifications. The decrease is also due to EPA's adjustments to its burden estimates. For example, EPA adjusted its analysis of its online tool, Portfolio Manager, to reflect data indicating that, although use of the tool is increasing, users are spending less time per building benchmarked, on average, than in the past.

Courtney Kerwin,

Director, Collection Strategies Division.

[FR Doc. 2019–20943 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0646; FRL–9997–92–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Incinerators (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR),

NSPS for Incinerators, (EPA ICR Number 1058.13, OMB Control Number 2060–0040), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through November 30, 2019. Public comments were previously requested, via the **Federal Register**, on May 6, 2019 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before October 28, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0646, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The New Source Performance Standards (NSPS) for Incinerators (40 CFR part 60, subpart E) apply to existing incinerators that charge more than 45 metric tons per day (50 tons per day) of solid waste, and that commenced either construction or modification after August 17, 1971. Solid waste is defined as refuse, more than 50 percent of which is municipal type waste consisting of a mixture of paper, wood, yard wastes, food wastes, plastics, leather, rubber, and other combustibles, and noncombustible materials such as glass and rock.

Owners and operators of existing incinerators that charge more than 45 metric tons per day (50 tons per day) of solid waste, and that commenced construction or modification after August 17, 1971 are required to comply with reporting and record keeping requirements for the General Provisions (40 CFR part 60, subpart A), as well as for the applicable standards in 40 CFR part 60, subpart E. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with 40 CFR part 60, subpart E.

Form Numbers: None.

Respondents/affected entities: Existing incinerators that charge more than 45 metric tons per day (50 tons per day) of solid waste, and that commenced either construction or modification after August 17, 1971.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart E).

Estimated number of respondents: 82 (total).

Frequency of response: Initially and occasionally.

Total estimated burden: 8,490 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $796,000 (per year), which includes $247,000 in annualized capital/startup and/or operation & maintenance costs and labor costs.

Changes in the Estimates: There is no change in the labor hours in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, the growth rate for the industry is negative or non-existent. There is an increase in O&M costs in this ICR compared to the previous ICR. The annual O&M costs for the PM CMS have been increased to 2018 dollars using the CEPCI Equipment Cost Index.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–20944 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0681; FRL—9998–30–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Commercial and Industrial Solid Waste Incineration (CISWI) Units (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NSPS for Commercial and Industrial Solid Waste Incineration (CISWI) Units (EPA ICR Number 1926.08, OMB Control Number 2060–0450), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through November 30, 2019. Public comments were previously requested, via the **Federal Register**, on May 6, 2019 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before October 28, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0681, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The New Source Performance Standards (NSPS) for Commercial and Industrial Solid Waste Incineration Units (aka: CISWI) (40 CFR part 60, subpart CCCC) apply to either owners or operators of a combustion device used to combust commercial and industrial waste, and that meet either of the following two criteria: (1) Began construction either on or after December 31, 1999; or (2) began either reconstruction or modification either on or after June 1, 2001. Commercial and industrial waste is a solid waste combusted in an enclosed device using controlled-flame combustion without energy recovery, which is a distinct operating unit of any commercial or industrial facility, including field-erected, modular, and custom-built incineration units operating with starved or excess air, or solid waste combusted in an air curtain incinerator without energy recovery that is a distinct operating unit of any commercial or industrial facility.

Owners and operators of affected incineration units are required to comply with reporting and record keeping requirements for the General Provisions (40 CFR part 60, subpart A), as well as for the specific requirements at 40 CFR part 60, subpart CCCC. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with these standards.

Form Numbers: None.

Respondents/affected entities: These regulations apply to owners and operators of Commercial and Industrial Solid Waste Incineration (CISWI) units that began construction either on or after December 31, 1999 or began either reconstruction or modification on or after June 1, 2001.

Respondent's obligation to respond: Mandatory (40 CFR part 60 subpart CCCC).

Estimated number of respondents: 30 (total).

Frequency of response: Semiannually and annually.

Total estimated burden: 6,520 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,160,000 (per year), which includes $406,000 annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is no change in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–20946 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0697: FRL–10000–41–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Iron and Steel Foundries (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Iron and Steel Foundries (EPA ICR Number 2096.07, OMB Control Number 2060–0543), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through November 30, 2019. Public comments were previously requested, via the **Federal Register**, on May 6, 2019 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before October 28, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0697, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Iron and Steel Foundries (40 CFR part 63 Subpart EEEEE) apply to both existing and new iron and steel foundry facilities that are major sources of hazardous air pollutant (HAP) emissions.

Owners and operators of affected facilities are required to comply with reporting and record keeping requirements for the General Provisions (40 CFR part 63, subpart A), as well as the applicable standards at 40 CFR part 63, subpart EEEEE. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with these standards.

Form Numbers: None.

Respondents/affected entities: Iron and steel foundries.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart EEEEE).

Estimated number of respondents: 45 (total).

Frequency of response: Initially, semiannually.

Total estimated burden: 14,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,880,000 (per year), which includes $246,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is a decrease in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. This decrease is not due to any program changes. The decrease in burden is an adjustment due to more accurate estimates of existing and anticipated new sources. The estimate of sources is based on Agency analyses conducted during the development the Risk and Technology Review for this subpart. The reduction in sources led to a decrease in burden hours and costs for labor, capital, and operation and maintenance. Activities for existing sources include continuous monitoring of pollutants and the submission of semiannual reports.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–20953 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2013–0118; FRL–9999–42–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Control of Evaporative Emissions From New and In-Use Portable Gasoline Containers (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Control of Evaporative Emissions from New and In-Use Portable Gasoline Containers (EPA ICR Number 2213.06, OMB Control Number 2060–0597) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This notice is a proposed extension of the Portable Fuel Container ICR, which is currently approved through September 30, 2019. Public comments were previously requested via the **Federal Register** on April 24, 2019 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may 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.

DATES: Additional comments must be submitted on or before October 28, 2019.

ADDRESSES: Submit your comments, referencing the Docket ID No. EPA–HQ–OAR–2013–0118, to (1) EPA online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Julia Giuliano, Compliance Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan 48105; telephone number: 734–214–4865; fax number 734–214–4869; email address: *giuliano.julia@epa.gov*.

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, will be available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets*.

Abstract: EPA is required under Section 183(e) of the Clean Air Act to regulate Volatile Organic Compound (VOC) emissions from the use of consumer and commercial products. Under regulations promulgated on February 26, 2007 (72 FR 8428) manufacturers of new portable gasoline containers are required to obtain certificates of conformity with the Clean Air Act, effective January 1, 2009. This ICR covers the burdens associated with this certification process. EPA reviews information submitted in a manufacturer's application for certification to determine if the gasoline container design conforms to applicable regulatory requirements and to verify that the required testing has been performed. The certificate holder is required to keep records on the testing and collect and retain warranty and defect information for annual reporting on in-use performance of their products. The respondent must also retain records on the units produced, apply serial numbers to individual containers, and track the serial numbers to their certificates of conformity. Any information submitted for which a claim of confidentiality is made is safeguarded according to EPA regulations at 40 CFR 2.201 *et seq.*

Form Numbers: None.

Respondents/affected entities: Manufacturers of new portable gasoline containers from 0.25 to 10.0 gallons in capacity.

Respondent's obligation to respond: Mandatory (40 CFR part 59, subpart F).

Estimated number of respondents: 8.

Frequency of response: Annually for warranty reports; at least once every five years for certificate renewals.

Total estimated burden: 250 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $27,902 (per year), which includes $14,010

annualized capital or operation & maintenance costs.

Changes in the Estimates: The number of manufacturers remains at eight and we do not anticipate any net changes in that figure in the next three years. The decrease in anticipated costs is due to the removal of three emissions applications.

Courtney Kerwin,

Director, Collection Strategies Division.

[FR Doc. 2019–20886 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10000–32–OAR]

Production of Confidential Business Information in Civil Litigation; Transfer of Information Claimed as Confidential Business Information to the United States Department of Justice and Parties to Certain Litigation

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is providing notice of disclosure of information which has been submitted to the EPA by owners/operators of oil and natural gas facilities that is claimed to be, or has been determined to be, confidential business information (CBI), in civil litigation styled *State of New York. et al.* v. *EPA,* No. 18–cv–773, pending in the United States District Court for the District of Columbia (Litigation). Disclosure is in response to discovery requests from Plaintiffs in this Litigation. The court has entered a Protective Order applicable to all parties that governs the treatment of CBI during and after this Litigation.

DATES: Access by the United States Department of Justice (DOJ) and/or the parties to this Litigation to material, including CBI, discussed in this document, will be ongoing and expected to continue during the Litigation.

FOR FURTHER INFORMATION CONTACT: Interested parties may contact Ms. Penny Lassiter, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D205–01), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (888) 372–8696; email address: *icr@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

Entities potentially affected by this action include owners/operators of oil and natural gas facilities who have submitted information to the EPA that is claimed to be, or has been determined to be, CBI. There are several industry segments that may be considered oil and natural gas facilities. Those facilities that may be affected by this action include the following industry segments: Onshore petroleum and natural gas production, onshore petroleum and natural gas gathering and boosting, onshore natural gas processing, onshore natural gas transmission compression, onshore natural gas transmission pipelines, underground natural gas storage, liquified natural gas (LNG) storage, and LNG import and export equipment.

The table below presents some examples of potentially affected entities according to the North American Industry Classification System (NAICS) code. This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities that may be impacted by this action. Other types of entities not listed in the table could also be impacted. If you have any questions regarding the applicability of this action, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Category	NAICS Codes	Examples of potentially affected entities
Petroleum and Natural Gas Systems.	211111	Crude petroleum and natural gas extraction.
	211112	Natural gas liquid extraction.
	221210	Natural gas distribution.
	486110	Pipeline distribution of crude oil.
	486210	Pipeline transportation of natural gas.

II. Action Description

The Plaintiffs filed this action to compel the EPA ''to comply with the nondiscretionary duty under the Clean Air Act (Act) to establish guidelines for limiting methane emissions from existing sources in the oil and natural gas sector, thereby remedying EPA's unreasonable delay in establishing such emission guidelines.'' *New York et al.* v. *EPA,* No. 1:18–cv–773, ECF Document No. 1 at 1 (D.D.C.). Plaintiffs in this action include the following: State of California, State of Connecticut, State of Illinois, State of Iowa, State of Maine, State of Maryland, Commonwealth of Massachusetts, State of New Mexico, State of Oregon, Commonwealth of Pennsylvania, State of Rhode Island, State of Vermont, State of Washington, District of Columbia, City of Chicago, and the Environmental Defense Fund (Plaintiff-Intervenor). Notice is being provided, pursuant to 40 CFR 2.209(d), to inform affected businesses that the EPA intends to transmit certain information which has been submitted by owners/operators of oil and natural gas facilities that is claimed to be, or has been determined to be, CBI, to the parties in this Litigation. The information includes communications with, and information provided by owners/operators of, oil and natural gas facilities in connection with the Information Collection Request (ICR) that the EPA issued to the oil and natural gas industry in 2016. See *https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/oil-and-natural-gas-information-collection.* Such information includes, but is not limited to, information submitted during development of the ICR (including the two rounds of public comment); information submitted in response to the ICR letter, including data (*e.g.,* completed surveys); questions about the ICR; and/or requests to the EPA for an exemption from or an extension of the deadlines for responding to the ICR.

The treatment of this information is governed by the Protective Order entered into by the parties to this Litigation. Interested third parties may find the Protective Order in the docket for the Litigation. *New York et al.* v. *EPA,* No. 1:18-cv-773, ECF Document No. 53 (D.D.C.). The Protective Order governs the distribution of CBI, limits its use to this Litigation, and provides for its return or destruction at the conclusion of the Litigation. In accordance with 40 CFR 2.209(c)–(d), DOJ must disclose such information to the extent required to comply with the discovery obligations of the EPA in this Litigation, including its obligations under the Protective Order.

Dated: September 12, 2019.

Anne L. Idsal,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2019–20930 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 10000–30–ORD]

Ambient Air Monitoring Reference and Equivalent Methods; Designation of One New Reference Method and One Reference Method Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of the designation of a new reference method and an amendment to an existing reference method for monitoring ambient air quality.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has designated one new reference method for measuring concentrations of nitrogen dioxide (NO_2), and one amendment to an existing reference method for measuring PM_{10} in ambient air.

FOR FURTHER INFORMATION CONTACT: Robert Vanderpool, Exposure Methods and Measurement Division (MD–D205–03), National Exposure Research Laboratory, U.S. EPA, Research Triangle Park, North Carolina 27711. Phone: 919–541–7877. Email: *Vanderpool.Robert@epa.gov*.

SUPPLEMENTARY INFORMATION: In accordance with regulations at 40 CFR part 53, the EPA evaluates various methods for monitoring the concentrations of those ambient air pollutants for which EPA has established National Ambient Air Quality Standards (NAAQS) as set forth in 40 CFR part 50. Monitoring methods that are determined to meet specific requirements for adequacy are designated by the EPA as either reference or equivalent methods (as applicable), thereby permitting their use under 40 CFR part 58 by States and other agencies for determining compliance with the NAAQS. A list of all reference or equivalent methods that have been previously designated by EPA may be found at *http://www.epa.gov/ttn/amtic/criteria.html*.

The EPA hereby announces the designation of one new reference method for measuring concentrations of NO_2 in ambient air. This designation is made under the provisions of 40 CFR part 53, as amended on October 26, 2015(80 FR 65291–65468).

The new reference method for NO_2 is an automated method (analyzer) utilizing the measurement principle based on gas phase chemiluminescence. This newly designated reference method is identified as follows:

RFNA–0819–254, ''Focused Photonics Inc. Model AQMS–600 Chemiluminescent Nitric Oxides Analyzer,'' operated with a measurement range of 0–0.5 ppm, equipped with a 1-micron, 47mm diameter Teflon® (PTFE) sample inlet filter, at any temperature in the range of 20 °C to 30 °C, with Molybdenum NO_X converter operating at 315 °C, at a nominal sample flow rate of 500±50 cc/min, with an ozone flow rate of 80±10% cc/min, at nominal input line voltage of 220±10% VAC and frequency of 50 Hz. Analyzer operated and maintained in accordance with the Model AQMS–600 Nitric Oxides Analyzer User Manual.

This application for a reference method determination for this NO_2 method was received by the Office of Research and Development on July 15, 2019. This analyzer is commercially available from the applicant, Focused Photonics Inc. (FPI), 760 Bin'an Road, Binjiang District, Hangzhou, Zhejiang, China.

A representative test analyzer was tested in accordance with the applicable test procedures specified in 40 CFR part 53, as amended on October 26, 2015. After reviewing the results of those tests and other information submitted by the applicant, EPA has determined, in accordance with part 53, that this method should be designated as a reference method.

As a designated reference method, this method is acceptable for use by states and other air monitoring agencies under the requirements of 40 CFR part 58, Ambient Air Quality Surveillance. For such purposes, this method must be used in strict accordance with the operation or instruction manual associated with the method and subject to any specifications and limitations (*e.g.,* configuration or operational settings) specified in the designated method description (see the identification of the method above).

Use of the method also should be in general accordance with the guidance and recommendations of applicable sections of the ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume I,'' EPA/600/R–94/038a and ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Quality Monitoring Program,'' EPA–454/B–13–003, (both available at *http://www.epa.gov/ttn/amtic/qalist.html*). Provisions concerning modification of such methods by users are specified under Section 2.8 (Modifications of Methods by Users) of Appendix C to 40 CFR part 58.

Consistent or repeated noncompliance with any of these conditions should be reported to: Director, Exposure Methods and Measurement Division (MD–E205–01), National Exposure Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this reference method is intended to assist the States in establishing and operating their air quality surveillance systems under 40 CFR part 58. Questions concerning the commercial availability or technical aspects of the method should be directed to the applicant.

The EPA hereby announces the amendment of one reference method for measuring concentrations of PM_{10} in ambient air. This amendment is made under the provisions of 40 CFR part 53, as amended on October 26, 2015 (80 FR 65291–65468).

This reference method for PM_{10} is a manual monitoring method based on a specific PM_{10} sampler. The amendment to this designated reference method corrects a typographical error in the original notice of designation [82 FR 44612, Sept. 25, 2017] and is corrected as follows:

RFPS–0717–246, ''Met One Instruments, Inc. E–SEQ–FRM,'' sequential sampler configured for multi-event filter sampling of ambient particulate matter using the US EPA PM_{10} inlet specified in 40 CFR 50 Appendix L, Figs. L–2 thru L–19, with a flow rate of 16.67 L/min, using 47 mm PTFE membrane filter media, and operating with firmware version R1.1.0 and later, and operated in accordance with the Met One E–SEQ–FRM PM_{10} operating manual. This designation applies to PM_{10} measurements only.

Dated: September 9, 2019.

Timothy Watkins,

Director, National Exposure Research Laboratory.

[FR Doc. 2019–20926 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0033; FRL–9995–79–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; EPA's ENERGY STAR® Product Labeling (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), EPA's ENERGY STAR Product Labeling (EPA ICR No. 2078.07, OMB Control No. 2060–0528), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through September 30, 2019. Public comments were previously requested via the **Federal Register** on April 10, 2019, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may 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.

DATES: Additional comments may be submitted on or before October 28, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2003–0033, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: James Kwon, Climate Protection Partnerships Division, Office of Air and Radiation, Mailcode 6202A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–8538; fax number: 202–343–2200; email address: *kwon.james@epa.gov*.

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets*.

Abstract: ENERGY STAR is a voluntary program developed in collaboration with industry to create a self-sustaining market for energy efficient products. The center piece of the program is the ENERGY STAR label, a registered certification label that helps consumers identify products that save energy, save money, and help protect the environment without sacrificing quality or performance. In order to protect the integrity of the label and enhance its effectiveness in the marketplace, EPA must ensure that products carrying the label meet program requirements.

EPA partners with retailers, energy efficiency program sponsors (EEPS), and product brand owners who wish to use the ENERGY STAR label to differentiate products as more energy efficient. Retailers, EEPS, and product brand owners sign and submit a Partnership Application to become a partner, indicating that they voluntarily agree to fulfill the relevant program requirements referenced in the Partnership Agreement Form and Participation Form.

Prior to labeling a product as ENERGY STAR, partners have eligible products tested in an EPA-recognized laboratory and certified by an EPA-recognized third-party certification body (CB). The CBs share information with EPA on products they review from EPA-recognized laboratories during the certification process. An XML-based data exchange allows the CBs to automatically transmit information on certified products to EPA from their database via web services, eliminating the need for paper submissions. EPA runs a series of automated validations to ensure the integrity of the data and confirm the credentials of the organizations associated with the data prior to incorporating it into the ENERGY STAR product database. EPA then provides the relevant information to consumers and purchasers in user-friendly formats that facilitate the purchase of energy efficient products.

The certification process also includes requirements for CBs to report to EPA products that were reviewed, but not eligible for certification, as well as to conduct post-market verification testing of a sampling of ENERGY STAR certified products. CBs complete a minimum amount of verification testing and share information with EPA on products verified twice a year. CBs report to EPA any post-market test data indicating a product may no longer meet the program requirements. This process helps maintain consumer confidence in the ENERGY STAR label and protect the investment of partners.

While most product-related information is provided by CBs, partners are asked to submit to EPA annual unit shipment data for their ENERGY STAR certified products. EPA is flexible as to the methods partners may use to submit unit shipment data.

Finally, partners that wish to receive recognition for their efforts in ENERGY STAR may submit an application for the Partner of the Year Award. Partners that have ENERGY STAR certified central air conditioners, air-source heat pumps, furnaces, geothermal heat pumps, and windows that meet the ENERGY STAR Most Efficient criteria may submit an application to gain ENERGY STAR Most Efficient recognition.

Form Numbers: 5900–252, 5900–251, 5900–33, 5900–253, 5900–168, 5900–206, 5900–207, 5900–28, 5900–208, 5900–210, 5900–228, 5900–234, 5900–229, 5900–235, 5900–47, 5900–349, 5900–350, 5900–351, 5900–348, 5900–35, 5900–37, 5900–38, 5900–39, 5900–41, 5900–42, 5900–43, 5900–44, 5900–48, 5900–49, 5900–50, 5900–51, 5900–54, 5900–55, 5900–56, 5900–57, 5900–58, 5900–230, 5900–224, 5900–227, 5900–166, 5900–165, 5900–164, 5900–226, 5900–163, 5900–34, 5900–216, 5900–217, 5900–218, 5900–388, 5900–254, 5900–255, 5900–439, 5900–440, 5900–415, 5900–416, 5900–438, 5900–417.

Respondents/affected entities: Partners and potential partners in EPA's ENERGY STAR program.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 2,732.

Frequency of response: Initially/one-time, on occasion, semi-annually, annually.

Total estimated burden: 40,391 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $2,531,810 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a decrease of 818 hours in the total estimated burden compared with the ICR currently approved by OMB. This decrease results from EPA's adjustments to the number of respondents. EPA's adjustments are based on its analysis of the program's historical data and trends on respondent activity and submissions.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–20885 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2013–0711; FRL–10000–16–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Data Requirements Rule for the 1-Hour Sulfur Dioxide Primary National Ambient Air Quality Standard (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted a renewal of an information collection request (ICR), Data Requirements Rule for the 1-Hour Sulfur Dioxide Primary National Ambient Air Quality Standard (EPA ICR Number 2495.03, Office of Management and Budget (OMB) Control Number 2060–0696) to OMB for review and approval in accordance with the Paperwork Reduction Act (PRA). This is a proposed extension of the existing ICR for the Data Requirements Rule for the 1-Hour Sulfur Dioxide Primary NAAQS (SO_2 Data Requirements Rule), which is currently approved through September 30, 2019. Public comments were previously requested via the **Federal Register** on July 12, 2019, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the proposed ICR renewal is given below, including the estimated burden and cost to respondents to meet the requirements of the SO_2 Data Requirements Rule. 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.

DATES: Comments must be submitted on or before October 28, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2013–0711, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered to be 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.*

FOR FURTHER INFORMATION CONTACT: Dr. Larry D. Wallace, Office of Air Quality Planning and Standards, Air Quality Policy Division, C504–05, U.S. Environmental Protection Agency, Research Triangle Park, NC; telephone number: (919) 541–0906; fax number: (919) 541–5509; email address: *wallace.larry@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Avenue NW, Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about the EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: This ICR addresses reporting and recordkeeping activity defined by the final Data Requirements for the 2010 1-Hour Sulfur dioxide (SO_2) Primary National Ambient Air Quality Standards rule (SO_2 Data Requirements Rule) (See 80 FR 51052, August 21, 2015).

Through the SO_2 Data Requirements Rule and the initial ICR, EPA required states to characterize ambient air quality around SO_2 sources with emissions that were greater than 2,000 tons per year (tpy) or that were otherwise included as a listed source. In this ICR, EPA addresses ongoing requirements that apply to listed sources for which air agencies chose the monitoring pathway as well as sources for which air agencies chose the modeling pathway. The number of listed sources for which air agencies chose the monitoring pathway, and thus are required to submit ongoing monitoring information, are 73 sources in 24 states (77 monitors total). The number of listed sources for which air agencies chose the modeling pathway that are required to submit ongoing data reports, and, potentially, updated modeling, are 170 sources in 43 states.

Air quality management agencies that elected to conduct ambient monitoring for listed DRR sources are responsible for reporting ambient air quality data information and retaining quality assurance/quality control records and monitoring network documentation. Where possible these activities are carried-out electronically using EPA's Air Quality System (AQS).

Air quality management agencies that elected to conduct air quality modeling of the areas containing listed DRR sources to provide the necessary air quality data to EPA are responsible for submitting ongoing data reports. If EPA requires that the air agency conduct updated air quality modeling for the area, the air agency has 12 months to submit the updated modeling to EPA.

Form Numbers: None.

Respondents/affected entities: State, local and tribal air pollution management control agencies.

Respondent's obligation to respond: Mandatory (40 CFR part 51).

Estimated number of respondents: 24 states or local agencies for monitoring, and 43 states or local agencies for modeling.

Frequency of response: Varies by requirement. Quarterly for monitoring data and annually for ongoing data verification reporting.

Total estimated burden: 26,948 hours (per year) for monitoring (specific hours for modeling not estimated, but labor costs are included in the estimated cost for modeling below). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $2,539,815 (per year) for monitoring, includes $189,246 annualized capital or operation and maintenance costs for monitoring, and $5,100,000 (per year) for modeling.

Changes in Estimates: The revisions in the monitoring and modeling burden result, in large part, from EPA having resolved uncertainty that inflated calculations in the previous ICR. While that ICR calculated burden for both the monitoring and the modeling scenarios assuming each one would be used by all possible sources, EPA now has the

ability to know how many sources will be using one approach or the other. Further adjustments to this ICR's burden estimates result for EPA having more accurately expressed the split between labor and non-labor costs used for the modeling scenario.

Courtney Kerwin,

Director, Collection Strategies Division.

[FR Doc. 2019–20954 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0690; FRL–10000–03–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Automobile and Light-Duty Truck Surface Coating (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Automobile and Light-duty Truck Surface Coating (EPA ICR Number 2045.08, OMB Control Number 2060–0550), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through November 30, 2019. Public comments were previously requested, via the **Federal Register** (84 FR 19777), on May 6, 2019 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before October 28, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0690, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at either *www.regulations.gov,* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Automobile and Light-duty Truck Surface Coating (40 CFR part 63, subpart IIII) apply to new, reconstructed, or existing facilities that apply topcoat to new automobile or new light-duty truck bodies or body parts for new automobiles or new light-duty trucks, and that is a major source, is located at a major source, or is part of a major source of emissions of hazardous air pollutants (HAP). New facilities include those that commenced either construction, or reconstruction after the date of proposal.

Owners and operators of major sources of HAP that apply topcoat to new automobile or new light-duty truck bodies or body parts for new automobiles or new light-duty trucks are required to comply with reporting and record keeping requirements for the General Provisions (40 CFR part 63, subpart A), as well as for the applicable standards in 40 CFR part 63, subpart IIII. This includes submitting notifications, performance test reports, and periodic reports, as well as maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; continuous parameter monitoring data; or any period during which the monitoring system is inoperative. These reports are used by the EPA to determine compliance with 40 CFR part 63, subpart IIII.

Form Numbers: None.

Respondents/affected entities: Facilities that perform surface coating on automobile or light-duty trucks.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart IIII).

Estimated number of respondents: 43 (total).

Frequency of response: Periodically and semiannually.

Total estimated burden: 17,500 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $2,070,000 (per year), which includes $51,600 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: The decrease in burden from the most recently-approved ICR is due to a decrease in the number of sources subject to the rule. This estimate is based on Agency analyses conducted during the development the Risk and Technology Review for this subpart. This decrease in the number of sources leads to a decrease in the number of responses, reporting and recordkeeping hours, and a decrease in the operation and maintenance (O&M) costs as compared with the costs in the previous ICR.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–20952 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2018–0274; FRL–10000–35–ORD]

Integrated Science Assessment for Ozone and Related Photochemical Oxidants (External Review Draft)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing a public comment period for the draft document titled, ''Integrated Science Assessment for Ozone and Related Photochemical Oxidants (External Review Draft)'' (EPA/600/R–19/093). The draft document was prepared by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development (ORD) as part of the review of the primary (health-based)

and secondary (welfare-based) ozone national ambient air quality standards (NAAQS). The Integrated Science Assessment (ISA), in conjunction with additional technical and policy assessments, provides the scientific basis for EPA's decisions on the adequacy of the current review of the ozone NAAQS and the appropriateness of possible alternative standards.

EPA is releasing this draft document to seek review by the Clean Air Scientific Advisory Committee (CASAC) and the public. In addition, the date and location of a public meeting for CASAC review of this document will be specified in a separate **Federal Register** document. This draft document is not final, and it does not represent, and should not be construed to represent, any final Agency policy or views. When revising the document, EPA will consider any public comments submitted during the public comment period specified in this document.

DATES: The public comment period begins on September 26, 2019 and ends December 2, 2019. Comments must be received on or before December 2, 2019.

ADDRESSES: The ''Integrated Science Assessment for Ozone and Related Photochemical Oxidants (External Review Draft)'' will be available primarily via the internet on EPA's Integrated Science Assessment for Ozone page at *https://www.epa.gov/isa/integrated-science-assessment-isa-ozone-and-related-photochemical-oxidants* or the public docket at *https://www.regulations.gov,* Docket ID: EPA–HQ–ORD–2018–0274. A limited number of CD–ROM copies will be available. Contact Ms. Marieka Boyd by phone: 919–541–0031; fax: 919–541–5078; or email: *boyd.marieka@epa.gov* to request a CD–ROM, and please provide your name, your mailing address, and the document title, ''Integrated Science Assessment for Ozone and Related Photochemical Oxidants (External Review Draft)'' to facilitate processing of your request.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the ORD Docket at the EPA Headquarters Docket Center; phone: 202–566–1752; fax: 202–566–9744; or email: *Docket_ORD@epa.gov*.

For technical information, contact Dr. Thomas Luben, NCEA; phone: 919–541–5762; fax: 919–541–1818; or email: *luben.tom@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Information About the Document

Section 108(a) of the Clean Air Act directs the Administrator to identify and list certain air pollutants and to issue air quality criteria for those pollutants. The Administrator is to list those pollutants ''emissions of which, in his judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare''; ''the presence of which in the ambient air results from numerous or diverse mobile or stationary sources''; and for which he ''plans to issue air quality criteria. . . .'' (42 U.S.C. 7408(a)(1)). The air quality criteria are to ''accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air. . . .'' (42 U.S.C. 7408(a)(2)). Under section 109 of the Act, EPA is then to establish NAAQS for each pollutant for which EPA has issued criteria. Section 109(d)(1) of the Act subsequently requires periodic review and, if appropriate, revision of existing air quality criteria to reflect advances in scientific knowledge on the effects of the pollutant on public health or welfare. Under the same provision, EPA is also required to periodically review and, if appropriate, revise the NAAQS, based on the revised air quality criteria (for more information on the NAAQS review process, see *https://www.epa.gov/criteria-air-pollutants/process-reviewing-national-ambient-air-quality-standards*).

Ozone is one of six criteria pollutants for which EPA has established NAAQS and is the current indicator for related photochemical oxidants. Periodically, EPA reviews the scientific basis for these standards by preparing an ISA (formerly called an Air Quality Criteria Document). The ISA, in conjunction with additional technical and policy assessments, provides the scientific basis for EPA's reviews of these standards NAAQS. Section 109(d)(2) of the Act requires appointment of an independent scientific review committee that is, among other things, to review at five-year intervals the existing air quality criteria and to recommend any revisions of those criteria as may be appropriate. Since the early 1980s, the requirement for an independent scientific review committee has been fulfilled by the Clean Air Scientific Advisory Committee (CASAC).

On June 26, 2018 (83 FR 13716), EPA formally initiated its current review of the air quality criteria for the health and welfare effects of ozone and related photochemical oxidants and the primary (health-based) and secondary (welfare-based) ozone NAAQS, requesting the submission of scientific and policy-relevant information on specified topics. This information was incorporated into EPA's ''Integrated Review Plan for the Review of the Ozone National Ambient Air Quality Standards (External Review Draft),'' which was available for public comment (83 FR 24037) and discussion by the CASAC via publicly accessible teleconference consultation (83 FR 24269). The final ''Integrated Review Plan for the Review of the Ozone National Ambient Air Quality Standards'' was posted to the EPA website in August 2019 (*https://www.epa.gov/naaqs/ozone-o3-air-quality-standards*).

In the development of the draft ISA, webinar workshops were held on October 29 and 31, 2018, and November 1 and 5, 2018, to discuss initial draft materials with invited EPA and external scientific experts (83 FR 23126). The input received during these webinar workshops aided in the development of the materials presented in the ''Integrated Science Assessment for Ozone and Related Photochemical Oxidants (External Review Draft).''

The ''Integrated Science Assessment for Ozone and Related Photochemical Oxidants (External Review Draft)'' will be discussed at a public meeting for review by CASAC. In addition to the public comment period announced in this notice, the public will have an opportunity to address CASAC at this meeting. A separate **Federal Register** document will inform the public of the exact date and time of the CASAC meeting and of the procedures for public participation.

II. How To Submit Technical Comments to the Docket at https://www.regulations.gov

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2018–0274, by one of the following methods:

- *https://www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: Docket_ORD@epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center (ORD Docket), Mail Code: 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The ORD Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004.

The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The phone

number for the Public Reading Room is 202–566–1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2018–0274. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late.'' EPA will attempt to consider late comments to the extent it is practical to do so, but time constraints may not permit consideration of late comments. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *https://www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information through *https://www.regulations.gov* or email that you consider to be CBI or otherwise protected. The *https://www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

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

Dated: September 10, 2019.

Tina Bahadori,

Director, National Center for Environmental Assessment.

[FR Doc. 2019–20925 Filed 9–25–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request (OMB No. 3064–0200)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its obligations under the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to take this opportunity to comment on the renewal of the existing information collection described below (3064–0200).

DATES: Comments must be submitted on or before November 25, 2019.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *FDIC Website: https://www.FDIC.gov/regulations/laws/federal.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202–898–3767), Counsel, 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 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Manny Cabeza, Counsel, (202) 898–3767, *mcabeza@fdic.gov,* MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: *Proposal to renew the following currently approved collection of information:*

1. *Title:* Joint Standards for Assessing Diversity Policies and Practices.

OMB Number: 3064–0200.

Form: Diversity Self-Assessment of Financial Institutions Regulated by the FDIC. (Paper Form). Form No. 2710/05.

Diversity Self-Assessment of Financial Institutions Regulated by the FDIC. (Electronic Form). Form No. 2710/06.

Affected Public: Insured Financial institutions supervised by the FDIC.

Burden Estimate:

SUMMARY OF ANNUAL BURDEN

Information collection (IC) description	Type of burden	Obligation to respond	Estimated number of respondents	Estimated number of responses	Estimated time per response (Hours)	Frequency of response	Total estimated annual burden (Hours)
Joint Standards for Assessing the Diversity Policies and Practices—*Paper Form.*	Reporting	Voluntary	120	1	8	Annually	960
Joint Standards for Assessing the Diversity Policies and Practices—*Electronic Form.*	Reporting	Voluntary	60	1	7	Annually	420
Joint Standards for Assessing the Diversity Policies and Practices—*Own Submission.*	Reporting	Voluntary	15	1	12	Annually	180

SUMMARY OF ANNUAL BURDEN—Continued

Information collection (IC) description	Type of burden	Obligation to respond	Estimated number of respondents	Estimated number of responses	Estimated time per response (Hours)	Frequency of response	Total estimated annual burden (Hours)
Total Estimated Annual Burden Hours.	.....	.....	.....	.....	.....	.....	1,560

General Description of Collection: This voluntary information collection applies to entities regulated by the FDIC for purposes of assessing their diversity policies and practices as described in the final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies. The FDIC may use the information submitted by the entities it regulates to monitor progress and trends in the financial services industry with regard to diversity and inclusion in employment and contracting activities and to identify and highlight those policies and practices that have been successful. The FDIC will continue to reach out to the regulated entities and other interested parties to discuss diversity and inclusion in the financial services industry and share leading practices. The FDIC may also publish information disclosed by the entity, such as any identified leading practices, in a form that does not identify a particular institution or individual or disclose confidential business information. The proposed paper form can be viewed at *https://www.fdic.gov/regulations/laws/federal/2019/3064-0200/proposed-paper-form.pdf* (*this form will need to be downloaded before it can be opened*); the proposed on-line form can be viewed at *https://www.fdic.gov/regulations/laws/federal/2019/3064-0200/proposed-on-line-form.pdf;* and the revisions to the paper form can be viewed at *https://www.fdic.gov/regulations/laws/federal/2019/3064-0200/proposed-revisions-to-paper-form.pdf.*

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and 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. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on September 23, 2019.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2019–20920 Filed 9–25–19; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Notice of Proposed Declaration of Dividend (FR 1583; OMB No. 7100–0339). The revisions are applicable immediately.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files. These documents also are available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are placed into OMB's public docket files.

Final Approval under OMB Delegated Authority of the Extension for Three Years, With Revision, of the Following Information Collection:

Report title: Notice of Proposed Declaration of Dividend.

Agency form number: FR 1583.

OMB control number: 7100–0339.

Effective Date: Immediately.

Frequency: As needed (approximately two per year, based on the average number of FR 1583 forms received annually, per respondent, for calendar years 2016 through 2018).

Respondents: Savings association subsidiaries of savings and loan holding companies (SLHCs).

Estimated number of respondents: 122.

Estimated average hours per response: 0.275.

Estimated annual burden hours: 67.

General description of report: Savings association subsidiaries of SLHCs must provide prior notice of a dividend by filing form FR 1583 with the appropriate Reserve Bank. The FR 1583 requires information regarding the date of the filing and the nature and amount of the proposed dividend, as well as the names and signatures of the executive officer and secretary of the savings association that is providing the notice. The savings association subsidiary must file this prior notice at least 30 days before the proposed declaration of a dividend by its board of directors. Section 10(f) of the Home Owners' Loan Act (HOLA) provides that the 30-day period commences on the date of receipt of the complete record of the notice by the board. This notice may include a schedule proposing dividends over a period specified by the notificant, not to exceed 12 months.

Legal authorization and confidentiality: The FR 1583 is mandatory and is authorized by Section

10(f) of the HOLA (12 U.S.C. 1467a(f)). The Board also has the authority to require reports from savings and loan holding companies under Section 10(a) and (b) of the HOLA (12 U.S.C. 1467a(b) and (g)). Section 10(f) of the HOLA provides that every subsidiary savings association of an SLHC shall give the Board at least 30 days' advance notice of the proposed declaration by its directors of any stock dividend.

Individual respondents may request that information submitted on the FR 1583 be kept confidential on a case-by-case basis. If a respondent requests confidential treatment, the Board will determine whether the information is entitled to confidential treatment on an ad hoc basis. The FR 1583 may include information related to the SLHC's business operations, such as terms and sources of the funding for dividends and pro forma balance sheets. This information may be kept confidential under exemption 4 of the Freedom of Information Act, which protects privileged or confidential commercial or financial information (5 U.S.C. 552(b)(4)).

Current actions: On June 17, 2019, the Board published a notice in the **Federal Register** (84 FR 28049) requesting public comment for 60 days on the extension, with revision, of the Notice of Proposed Declaration of Dividend. The Board proposed several revisions to make the FR 1583 consistent with the format of other Board forms and to reflect the Board's regulations. Specifically, the Board proposed the following revisions:

1. Adding an item requiring the filer to identify the ''Nature of the Dividend.'' Board regulations permit a dividend to consist of the distribution of cash or other property, or any transaction that is substantively a dividend, as provided by the Board (12 CFR 238.102(d)). The Reserve Bank must know the nature of the dividend to review the notice for consistency with the Board's regulations.

2. Adding an item requesting date of filing. This information is customarily requested in Board reporting forms so that the timing of filings can be tracked.

3. Deleting an item asking the filer to select whether the institution qualifies or does not qualify for expedited treatment. The Board's regulations do not provide for expedited treatment of notices of proposed declarations of dividends.

4. Deleting an item asking the filer to select whether the submission is a notice or application. The Board's regulations provide that a filer provide notice, rather than an application, to the appropriate Reserve Bank (12 CFR 238.103).

5. Deleting an item allowing institutions to attach additional information required pursuant to the Office of Thrift Supervision's regulations (12 CFR 563.143). The Board does not have analogous regulations.

6. Adding the option to submit the FR 1583 electronically by Portable Document Format. Use of electronic submissions will reduce burden on both the filer and the Board.

7. Adding two items for the printed name of the firm Executive Officer and Secretary who sign the FR 1583. This change will help Federal Reserve staff identify the individuals associated with the filing.

The comment period for this notice expired on August 16, 2019. The Board did not receive any comments. The revisions will be implemented as proposed.

Board of Governors of the Federal Reserve System, September 23, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–20940 Filed 9–25–19; 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 (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 applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Federal Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th and Constitution Avenue NW, Washington, DC 20551–0001, not later than October 15, 2019.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Michael C. Martin Gift Trust, Kristine M.P. Martin and William S. Martin as co-trustees; the William S. Martin Gift Trust, Jeanne Anna Kelso and William C. Martin as co-trustees; the William C. Martin GRAT Remainder Trust fbo William S. Martin, William C. Martin as trustee; the William C. Martin GRAT Remainder Trust fbo Michael C. Martin, William C. Martin as trustee; the William C. Martin 2019 Grantor Retained Annuity Trust #1, William C. Martin as trustee; and the William C. Martin 2019 Grantor Retained Annuity Trust #2, William C. Martin as trustee, all of Ann Arbor, Michigan*; to be approved as members acting in concert with the Martin Family Control Group, to retain and acquire voting shares of Arbor Bancorp, Inc., parent holding company of Bank of Ann Arbor, both of Ann Arbor, Michigan.

2. *David A. Albin; and David A. Albin, as general partner of MJD Family Investments Limited Partnership and DAA Investments, L.P., all of Newman, Illinois*; as a group acting in concert, to retain voting shares of Longview Capital Corporation, Newman, Illinois, parent holding company of Longview Bank, Ogden, Illinois; Longview Bank & Trust, Chrisman, Illinois; and Bank of Gibson City, Gibson City, Illinois.

Board of Governors of the Federal Reserve System, September 23, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–20919 Filed 9–25–19; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Financial Statements for Holding Companies (FR Y–9 Reports; OMB No. 7100–0128).

DATES: Comments must be submitted on or before November 25, 2019.

ADDRESSES: You may submit comments, identified by *FR Y–9 Reports* by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB

number in the subject line of the message.

• *FAX:* (202) 452–3819 or (202) 452–3102.

• *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from 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.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, 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 collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection

Report Title: Financial Statements for Holding Companies.

Agency form number: FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES, and FR Y–9CS.

OMB control number: 7100–0128.

Frequency: Quarterly, semiannually, and annually.

Respondents: Bank holding companies, savings and loan holding companies, securities holding companies, and U.S. intermediate holding companies (collectively, HCs).

Estimated number of respondents: FR Y–9C (non-advanced approaches HCs with less than $5 billion in total assets): 155; FR Y–9C (non-advanced approaches HCs with $5 billion or more in total assets: 188; FR Y–9C (advanced approaches HCs): 20; FR Y–9LP: 434; FR Y–9SP: 3,960; FR Y–9ES: 83; FR Y–9CS: 236.

Estimated average hours per response:

Reporting

FR Y–9C (non-advanced approaches HCs with less than $5 billion in total assets): 40.48 hours; FR Y–9C (non-advanced approaches HCs with $5 billion or more in total assets): 46.34 hours; FR Y–9C (advanced approaches HCs): 47.59 hours; FR Y–9LP: 5.27 hours; FR Y–9SP: 5.40 hours; FR Y–9ES: 0.50 hours; FR Y–9CS: 0.50 hours.

Recordkeeping

FR Y–9C (non-advanced approaches HCs with less than $5 billion in total assets), FR Y–9C (non-advanced approaches HCs with $5 billion or more in total assets), FR Y–9C (advanced approaches HCs), and FR Y–9LP: 1.00 hours; FR Y–9SP, FR Y–9ES, and FR Y–9CS: 0.50 hours.

Estimated annual burden hours:

Reporting

FR Y–9C (non-advanced approaches HCs with less than $5 billion in total assets): 25,098 hours; FR Y–9C (non-advanced approaches HCs with $5 billion or more in total assets): 34,848 hours; FR Y–9C (advanced approaches HCs): 3,807 hours; FR Y–9LP: 9,149 hours; FR Y–9SP: 42,768; FR Y–9ES: 42 hours; FR Y–9CS: 472 hours.

Recordkeeping

FR Y–9C (non-advanced approaches HCs with less than $5 billion in total assets): 620 hours; FR Y–9C (non-advanced approaches HCs with $5 billion or more in total assets): 752 hours; FR Y–9C (advanced approaches HCs): 80 hours; FR Y–9LP: 1,736 hours; FR Y–9SP: 3,960 hours; FR Y–9ES: 42 hours; FR Y–9CS: 472 hours.

General description of report:

The FR Y–9C consists of standardized financial statements similar to the Call Reports filed by commercial banks.[1] The FR Y–9C collects consolidated data from HCs and is filed quarterly by top-tier HCs with total consolidated assets of $3 billion or more.[2]

The FR Y–9LP, which collects parent company only financial data, must be submitted by each HC that files the FR Y–9C, as well as by each of its subsidiary HCs.[3] The report consists of standardized financial statements.

The FR Y–9SP is a parent company only financial statement filed

[1] The Call Reports consist of the FFIEC 051, as well as the Consolidated Reports of Condition and Income for a Bank with Domestic Offices Only (FFIEC 041) and the Consolidated Reports of Condition and Income for a Bank with Domestic and Foreign Offices (FFIEC 031).

[2] Under certain circumstances described in the FR Y–9C's General Instructions, HCs with assets under $3 billion may be required to file the FR Y–9C.

[3] A top-tier HC may submit a separate FR Y–9LP on behalf of each of its lower-tier HCs.

semiannually by HCs with total consolidated assets of less than $3 billion. In a banking organization with total consolidated assets of less than $3 billion that has tiered HCs, each HC in the organization must submit, or have the top-tier HC submit on its behalf, a separate FR Y–9SP. This report is designed to obtain basic balance sheet and income data for the parent company, as well as data on its intangible assets and intercompany transactions.

The FR Y–9ES is filed annually by each employee stock ownership plan (ESOP) that is also an HC. The report collects financial data on the ESOP's benefit plan activities. The FR Y–9ES consists of four schedules: A Statement of Changes in Net Assets Available for Benefits, a Statement of Net Assets Available for Benefits, Memoranda, and Notes to the Financial Statements.

The FR Y–9CS is a free-form supplemental report that the Board may utilize to collect critical additional data deemed to be needed in an expedited manner from HCs. The data are used to assess and monitor emerging issues related to HCs, and the report is intended to supplement the other FR Y–9 reports. The data items included on the FR Y–9CS may change as needed.

Proposed revisions:

FR Y–9C Revisions

The Board has determined it no longer needs certain FR Y–9C items from financial institutions with less than $5 billion in total assets. The Board proposes to reduce burden on these financial institutions by adding new and revised reporting thresholds, reducing the reporting frequency for certain items and schedules from quarterly to semiannually or annually, and combining certain items. These revisions would be consistent with recent and proposed reporting changes to the Call Report. The proposed revisions are as follows:

New and Revised Reporting Thresholds

The Board proposes to add a reporting threshold of $5 billion or more in total assets,[4] below which HCs would not be required to complete the following data items:

- Schedule HI, data item 1(e), Interest income from trading assets;
- Schedule HI, data item 2(c), Interest on trading liabilities and other borrowed money;
- Schedule HI, data item 2(d), Interest on subordinated notes and debentures and on mandatory convertible securities;
- Schedule HI, data item 5(c), Trading revenue;
- Schedule HI, data item 5(e), Venture capital revenue;
- Schedule HI, data item 5(g), Net securitization income;
- Schedule HI, Memo item 1, Net interest income on a fully taxable equivalent basis;
- Schedule HI, Memo item 2, Net income before applicable income taxes, and discontinued operations;
- Schedule HI, Memo items 8.a.(1) through 8.b.(2), Discontinued operations and applicable income tax effect;
- Schedule HI, Memo items 9(a) through 9(e), details pertaining to trading revenue;
- Schedule HI, Memo item 11, Credit losses on derivatives;
- Schedule HI, Memo items 12(a) through 12(c), detail pertaining to Income from the sale and servicing of mutual funds and annuities (in domestic offices);
- Schedule HI, Memo items 14(a) through 14(b)(1), details pertaining to net gains (losses) recognized in earnings on assets and liabilities that are reported at fair value under a fair value option;
- Schedule HI, Memo item 15, Stock-based employee compensation expense (net of tax effects) calculated for all awards under the fair value method;
- Schedule HI–B, Part I, data item 6, columns A and B, Loans to foreign governments and official institutions;
- Schedule HI–B, Part I, Memo item 2, columns A and B, Loans secured by real estate to non-U.S. addressees;
- Schedule HI–B, Part I, Memo item 3, Uncollectible retail credit card fees and finance charges reversed against income;
- Schedule HI–B, Part II, Memo item 1, Allocated transfer risk reserve;
- Schedule HI–B, Part II, Memo item 2, Separate valuation allowance for uncollectible retail credit card fees and finance charges;
- Schedule HI–B, Part II, Memo item 3, Amount of allowance for loan and lease losses attributable to retail credit card fees and finance charges;
- Schedule HI–B, Part II, Memo item 4, Amount of allowance for post-acquisition credit losses on purchased credit-impaired loans;
- Schedule HI–C, Disaggregated Data on the Allowance for Loan and Lease Losses
- Schedule HC–C, data item 10(a), Leases to individuals for household, family, and other personal expenditures;
- Schedule HC–C, data item 10(b), All other leases;
- Schedule HC–C, Memo item 3, Loans secured by real estate to non-U.S. addressees;
- Schedule HC–C, Memo item 4, Outstanding credit card fees and finance charges;
- Schedule HC–D, Trading Assets and Liabilities;[5]
- Schedule HC–K, data item 4(a), Trading assets;
- Schedule HC–L, data items 1(b)(1), Unused consumer credit card lines, and 1(b)(2), Other unused credit card lines;
- Schedule HC–L, data item 1(d), Securities underwriting;
- Schedule HC–L, data item 2(a), Amount of financial standby letters of credit conveyed to others;
- Schedule HC–L, data item 3(a), Amount of performance standby letters of credit conveyed to others;
- Schedule HC–L, data items 7(a) through 7(d)(2)(b), pertaining to credit derivatives;
- Schedule HC–L, data items 11(a) through 14(b)(2), pertaining to derivatives positions;
- Schedule HC–M, Memo items 6(a)(1)(a)(1) though 6(d), pertaining to assets covered by loss-sharing agreements with the Federal Deposit Insurance Corporation (FDIC);
- Schedule HC–N, data items 12(a)(1)(a) through 12(f), pertaining to loans and leases which are covered by loss-sharing agreements with the FDIC;
- Schedule HC–N, Memo item 6, Fair value of derivative contract amounts carried as assets;[6]
- Schedule HC–P, 1–4 Family Residential Mortgage Banking Activities in Domestic Offices;
- Schedule HC–Q, Assets and Liabilities Measured at Fair Value;
- Schedule HC–S, Servicing, Securitization, and Asset Sale Activities; and
- Schedule HC–V, Variable Interest Entities.

Reduced Reporting Frequencies

For HCs with less than $5 billion in total assets, the Board proposes to reduce the reporting frequency from quarterly to semi-annually (June and December reporting) for the following items:

[4] The $5 billion asset threshold is based on total assets as reported for the previous June 30th report date.

[5] Currently, Schedule HC–D must be completed by holding companies with total trading assets of $10 million or more in any of the four preceding calendar quarters. The Board proposes to modify the existing threshold by adding a reporting threshold of $5 billion or more in total assets.

[6] Currently, this item must be completed by holding companies with total assets of $1 billion or more, or with $2 billion or more in par/notional amounts of off-balance-sheet derivative contracts. The Board proposes to increase the reporting threshold from $1 billion to $5 billion or more in total assets.

• Schedule HI, Memo item 17, Other-than-temporary impairment losses on held-to-maturity and available-for-sale debt securities recognized in earnings;

• Schedule HI–C, Disaggregated Data on the Allowance for Credit Losses; [7]

• Schedule HC–C, Memo items 1(a)(1) through 1(f)(3)(c) pertaining to loans restructured in troubled debt restructurings that are in compliance with their modified terms;

• Schedule HC–N, Memo items 1(a)(1) through 1(f)(3)(c) pertaining to loans restructured in troubled debt restructurings that are in compliance with their modified terms;

• Schedule HC–R, Part II, items 1 through 25, columns A through U; [8]

• Schedule HC–R, Part II, Memorandum items 1 through 3, all subitems, columns A through G.[9]

In addition, for HCs with less than $5 billion in total assets, the Board proposes to reduce the reporting frequency from quarterly to annually on a calendar year-to-date basis in the December report only for the following items:

• Schedule HI, Memo items 6(a) through 6(j), Other noninterest income;

• Schedule HI, Memo items 7(a) though 7(p), Other noninterest expense; and

• Schedule HI, Memo item 16, Noncash income from negative amortization on closed-end loans secured by 1–4 family residential properties.

Combined Data Items

For HCs with less than $5 billion in total assets, the Board proposes to combine certain data items,[10] all reportable on a quarterly basis, as follows:

• Combine information currently reported in Schedule HI data items 5(d)(1) through 5(d)(5), pertaining to various fees and commissions on securities brokerage investments, investment banking and insurance, into new data items 5(d)(6) and 5(d)(7);

• Combine information currently reported in Schedule HI–B Part I, data items 4(a) and 4(b), columns A and B, pertaining to commercial and industrial loans, into new data item 4(c), columns A and B;

• Combine information currently reported in Schedule HI–B Part I, data items 8(a) and 8(b), columns A and B, pertaining to lease finance receivables, into new data item 8(c), columns A and B;

• Combine information currently reported in Schedule HC–B, data items 4(a)(1) through 4(a)(3), columns A through D, pertaining to residential pass-through securities, into new item 4(a)(4), columns A through D;

• Combine information currently reported in Schedule HC–C, data items 4(a) and 4(b), column A, pertaining to commercial and industrial loans, into new data item 4(c), column A;

• Combine information currently reported in Schedule HC–C, data items 9(b)(1) and 9(b)(2), column A and B, pertaining to loans for purchasing or carrying securities and all other loans, into new data item 9(b)(3), columns A and B;

• Combine information currently reported in Schedule HC–C, data items 10(a) and 10(b), column A, pertaining to lease financing receivables (net of unearned income), into new data item 10(c), column A;

• Combine information currently reported in Schedule HC–C, Memo items 1(e)(1) and 1(e)(2), pertaining to commercial and industrial loans, into new memo item (1)(e)(3);

• Combine information currently reported in Schedule HC–C, Memo items 12(a) though 12(d), pertaining to loans (not subject to the requirements of FASB ASC 310–30 (former AICPA Statement of Position 03–3)) and leases held for investment that are acquired in business combinations with acquisition dates in the current calendar year, into new memo item 12(e);

• Combine information currently reported in Schedule HC–N, data items 8(a) and 8(b), columns A, B and C, pertaining to leases financing receivables, into new data item 8(c), columns A, B and C; and

• Combine information currently reported in Schedule HC–N, Memo items 1(e)(1) and 1(e)(2), columns A, B and C, pertaining to commercial and industrial loans, into new memo item 1(e)(3), columns A, B and C.

Recordkeeping Requirements

The instructions to the FR Y–9C, FR Y–9LP, FR Y–9SP, and FR Y–9ES state that respondents must maintain in their files a manually signed and attested printed copy of the data submitted on the form, and should retain workpapers and other records used in the preparation of those reports. The Board is proposing to revise the FR Y–9 information collection to account for these recordkeeping provisions, which are not currently accounted for.

Legal authorization and confidentiality: The Board has the authority to impose the reporting and recordkeeping requirements associated with the Y–9 family of reports on bank holding companies (''BHCs'') pursuant

[7] In June 2016, the Financial Accounting Standard Board (FASB) issued Accounting Standard Update 2016–13 (ASU 2016–13), which introduced the current expected credit loss methodology for estimating allowances for credit losses. In response to ASU 2016–13, the Board added Schedule HI–C Part II, Disaggregated Data on Allowances for Credit Losses, to capture disaggregated data on allowances for credit losses and held-to-maturity securities from HCs that have adopted ASU 2016–13, effective, March 31, 2019. *See* 83 FR 63870 (December 12, 2018). The Board is proposing to add a semiannual reporting frequency for Schedule HI–C, Part II for HCs with less than $5 billion in total assets. For HCs with less than $5 billion in total assets that *have not* adopted ASU 2016–13, the Board proposes to collect the recorded investment instead of the amortized cost and collect the allowance balance on loans and leases held for investment, on Schedule HI–C Part II data items 1–6, on a semiannual basis. HCs with less than $5 billion in total assets *that have* adopted ASU 2016–13, should report the amortized cost and allowance balance for credit losses on held-to-maturity securities on Schedule HI–C, Part II data items 1–6 and the allowance balance on held-to-maturity securities on data items 7–11, semi-annually. The proposed changes become effective September 2019, and are reportable starting in December 2019. The Board believes that semi-annual information on the composition of the allowance for credit losses in relation to the amortized cost for each loan category, and disaggregated information on HTM securities allowances, is sufficient to support the Board's analysis of the allowance and credit risk management. The data on allowance allocations by loan category, when reviewed in conjunction with the past due and nonaccrual data reported by loan category in Schedule HC–N, which will continue to be reported on a quarterly basis, assist the staff in assessing a HC's credit risk exposures and evaluating the appropriateness of the overall level of its Allowance for Loan and Lease Losses and its allocations by loan category. If changes in the quarterly past due and nonaccrual data by loan category at individual HCs in quarters when the disaggregated allowance data would not be reported in the FR Y–9C raise questions about the composition of the allowance, supervisory follow-up can be undertaken on a case-by-case basis.

[8] In these items, HCs currently report detailed information about the risk-weighting of various types of assets and other exposures under the Federal Reserve's' regulatory capital rules. HCs still would need to calculate risk-weighted assets, maintain appropriate documentation for this calculation, and report items 26 through 31 of Part II, if applicable, on a quarterly basis. The Federal Reserve does not believe it is necessary for HCs to continue to provide the details of their risk-weighting allocations and calculations in Schedule HC–R, Part II, on a quarterly basis as the Federal Reserve can adequately review regulatory capital calculations for the first and third calendar quarters as part of on-site examinations or through other types of periodic monitoring, as necessary.

[9] HCs currently report detailed information in these items about derivative exposures that are elements of the risk-weighting process for these exposures. The Board does not believe it is necessary for a HC with less than $5 billion in total assets to continue to report these amounts on a quarterly basis. Generally, HCs with less than $5 billion in total assets do not have a significant amount of derivatives contracts, and the Board can review information about HCs' risk-weighting calculations for derivative exposures for the first and third calendar quarters, as necessary, as part of on-site examinations or through other periodic monitoring.

[10] HCs with less than $5 billion in total assets would report only the newly combined data items. HCs with $5 billion or more in total assets would continue to report only the currently existing data items.

to section 5 of the Bank Holding Company Act (''BHC Act''), (12 U.S.C. 1844); on savings and loan holding companies pursuant to section 10(b)(2) and (3) of the Home Owners' Loan Act, (12 U.S.C. 1467a(b)(2) and (3)), as amended by sections 369(8) and 604(h)(2) of the Dodd-Frank Wall Street and Consumer Protection Act (''Dodd-Frank Act''); on U.S. intermediate holding companies (''U.S. IHCs'') pursuant to section 5 of the BHC Act, (12 U.S.C 1844), as well as pursuant to sections 102(a)(1) and 165 of the Dodd-Frank Act, (12 U.S.C. 511(a)(1) and 5365)[11]; and on securities holding companies pursuant to section 618 of the Dodd-Frank Act, (12 U.S.C. 1850a(c)(1)(A)). The obligation to submit the FR Y–9 series of reports, and the recordkeeping requirements set forth in the respective instructions to each report, are mandatory.

With respect to the FR Y–9C report, Schedule HI's item 7(g) ''FDIC deposit insurance assessments,'' Schedule HC–P's item 7(a) ''Representation and warranty reserves for 1–4 family residential mortgage loans sold to U.S. government agencies and government sponsored agencies,'' and Schedule HC–P's item 7(b) ''Representation and warranty reserves for 1–4 family residential mortgage loans sold to other parties'' are considered confidential commercial and financial information. Such treatment may be appropriate under exemption 4 of the Freedom of Information Act (''FOIA''), (5 U.S.C. 552(b)(4)), because these data items reflect commercial and financial information that is both customarily and actually treated as private by the submitter, and which the Board has previously assured submitters will be treated as confidential. It also appears that disclosing these data items may reveal confidential examination and supervisory information, and in such instances, this information may also be withheld pursuant to exemption 8 of the FOIA, (5 U.S.C. 552(b)(8)), which protects information related to the supervision or examination of a regulated financial institution.

In addition, for both the FR Y–9C report and the FR Y–9SP report, Schedule HC's memorandum item 2.b., the name and email address of the external auditing firm's engagement partner, is considered confidential commercial information and protected by exemption 4 of the FOIA, (5 U.S.C. 552(b)(4)), if the identity of the engagement partner is treated as private information by HCs. The Board has assured respondents that this information will be treated as confidential since the collection of this data item was proposed in 2004.

Aside from the data items described above, the remaining data items on the FR Y–9C report and the FR Y–9SP report are generally not accorded confidential treatment. The data items collected on FR Y–9LP, FR Y–9ES, and FR Y–9CS[12] reports, are also generally not accorded confidential treatment. As provided in the Board's Rules Regarding Availability of Information (12 CFR part 261), however, a respondent may request confidential treatment for any data items the respondent believes should be withheld pursuant to a FOIA exemption. The Board will review any such request to determine if confidential treatment is appropriate, and will inform the respondent if the request for confidential treatment has been denied.

To the extent the instructions to the FR Y–9C, FR Y–9LP, FR Y–9SP, and FR Y–9ES reports each respectively direct the financial institution to retain the workpapers and related materials used in preparation of each report, such material would only be obtained by the Board as part of the examination or supervision of the financial institution. Accordingly, such information may be considered confidential pursuant to exemption 8 of the FOIA. (5 U.S.C. 552(b)(8)). In addition, the workpapers and related materials may also be protected by exemption 4 of the FOIA, to the extent such financial information is treated as confidential by the respondent. (5 U.S.C. 552(b)(4)).

Consultation outside the agency: The Board consulted with the FDIC and the Office of the Comptroller of the Currency in regard to these proposed revisions.

Board of Governors of the Federal Reserve System, September 23, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–20928 Filed 9–25–19; 8:45 am]

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[11] Section 165(b)(2) of Title I of the Dodd-Frank Act, (12 U.S.C. 5365(b)(2)), refers to ''foreign-based bank holding company.'' Section 102(a)(1) of the Dodd-Frank Act, (12 U.S.C. 5311(a)(1)), defines ''bank holding company'' for purposes of Title I of the Dodd-Frank Act to include foreign banking organizations that are treated as bank holding companies under section 8(a) of the International Banking Act, (12 U.S.C. 3106(a)). The Board has required, pursuant to section 165(b)(1)(B)(iv) of the Dodd-Frank Act, (12 U.S.C. 5365(b)(1)(B)(iv)), certain foreign banking organizations subject to section 165 of the Dodd-Frank Act to form U.S. intermediate holding companies. Accordingly, the parent foreign-based organization of a U.S. IHC is treated as a BHC for purposes of the BHC Act and section 165 of the Dodd-Frank Act. Because Section 5(c) of the BHC Act authorizes the Board to require reports from subsidiaries of BHCs, section 5(c) provides additional authority to require U.S. IHCs to report the information contained in the FR Y–9 series of reports.

[12] The FR Y–9CS is a supplemental report that may be utilized by the Board to collect additional information that is needed in an expedited manner from HCs. The information collected on this supplemental report is subject to change as needed. Generally, the FR Y–9CS report is treated as public. However, where appropriate, data items on the FR Y–9CS report may be withheld under exemptions 4 and/or 8 of the Freedom of Information Act, (5 U.S.C. 552(b)(4) and (8)).

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Payments Systems Surveys (FR 3054; OMB No. 7100–0332). The revisions are applicable immediately.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

A copy of the PRA OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files. These documents also are available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are placed into OMB's public docket files.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, With Revision, of the Following Information Collection

Report title: Payments Systems Surveys.

Agency form number: FR 3054.

OMB control number: OMB No. 7100–0332.

Effective Date: Immediately.

Frequency: FR 3054a, five times per year; FR 3054b, annually; FR 3054c, semi-annually; FR 3054d, quarterly; and FR 3054e, five times per year.

Respondents: Financial institutions, including depository institutions, individuals, law enforcement, and nonfinancial businesses (banknote equipment manufacturers, or global wholesale bank note dealers).

Estimated number of respondents: FR 3054a, 4,000 respondents; FR 3054b, 300 respondents; FR 3054c, 25 respondents; FR 3054d, 250 respondents; and FR 3054e, 500 respondents.

Estimated average hours per response: FR 3054a, 0.75 hours; FR 3054b, 0.50 hours; FR 3054c, 30 hours; FR 3054d, 2.5 hours; and FR 3054e, 0.50 hours.

Estimated annual burden hours: FR 3054a, 15,000 hours; FR 3054b, 150 hours; FR 3054c, 1,500 hours; FR 3054d, 2,500 hours; and FR 3054e, 1,250 hours.

General description of report: The Payments Systems Surveys are used to obtain information specifically tailored to the Federal Reserve's operational and fiscal agency responsibilities.

Legal authorization and confidentiality: The information obtained from the FR 3054 may be used in support of the Board's role in overseeing the Federal Reserve Banks' provision of financial services to depository institutions; developing policies and regulations to foster the efficiency and integrity of the U.S. payment system; working with other central banks and international organizations to improve the payment system more broadly; conducting research on payments issues; and working with other federal agencies on currency design and quality issues and to educate the global public on the security features of Federal Reserve notes. Therefore, the FR 3054 is authorized pursuant to the Board's authority under Sections 11(d),[1] 11A,[2] 13,[3] and 16[4] of the Federal Reserve Act. The FR 3054 is voluntary.

The questions asked on each survey would vary, so the ability of the Board to maintain the confidentiality of information collected would be determined on a case-by-case basis. It is possible that the information collected would constitute confidential commercial or financial information, which may be kept confidential under exemption 4 of the Freedom of Information Act (''FOIA'').[5] In circumstances where the Board collects information related to individuals, FOIA exemption 6 may protect information ''the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.''[6] To the extent the information collected relates to examination, operating, or condition reports prepared for the use of an agency supervising financial institutions, such information may be kept confidential under FOIA exemption 8.[7]

Current actions: On June 21, 2019, the Board published a notice in the **Federal Register** (84 FR 29203) requesting public comment for 60 days on the extension, with revision, of the Payments Systems Surveys. The Board proposed to increase the frequency of the Ad Hoc Payment Systems Survey (FR 3054a) up to five times per year in order to meet the changing needs of the U.S. currency program. This amendment reflects an increased frequency of data collection on a temporary basis. The increase in frequency of surveys will allow the Federal Reserve System flexibility to respond to diverse needs for data by surveying smaller groups of respondents multiple times throughout a year. Additionally, the Board proposed to revise the number of respondents from 20,000 to 4,000. The Board also proposed to implement a Currency Education Usability Survey (FR 3054e) to be conducted through the Board or a private firm up to five times per year to collect information on the effectiveness and usability of digital currency education tools. The comment period for this notice expired on August 20, 2019. The Board did not receive any comments. The revisions will be implemented as proposed.

Board of Governors of the Federal Reserve System, September 23, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–20938 Filed 9–25–19; 8:45 am]

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[1] 12 U.S.C. 248(d).

[2] 12 U.S.C. 248a.

[3] 12 U.S.C. 342.

[4] 12 U.S.C. 411, 412, 413, 414, 415, 416, 417, 421.

[5] 5 U.S.C. 552(b)(4).

[6] 5 U.S.C. 552(b)(6).

[7] 5 U.S.C. 552(b)(8).

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 (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 applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Federal Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th and Constitution Avenue NW, Washington, DC 20551–0001, not later than October 10, 2019.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Warren E. Hansen Jr., Delavan, Wisconsin, as managing member of 205 MacArthur, LLC; 205 MacArthur, LLC, Mukwonago, Wisconsin, together with Warren E. Hansen Jr. and Eunice N. Hansen, Delavan, Wisconsin, as trustees of the Warren E. Hansen and Eunice N. Hansen Joint Revocable Living Trust; the Warren E. Hansen and Eunice N. Hansen Joint Revocable Living Trust, Delavan, Wisconsin; Warren E. Hansen Jr., Delavan, Wisconsin, as Secretary of Caldwell Cemetery Association; and Caldwell Cemetery Association, Delavan, Wisconsin*; as a group acting in concert, to retain 10 percent or more of the voting shares of Citizens Bank Holding, Inc., Mukwonago, Wisconsin, the parent holding company of Citizens Bank, also of Mukwonago, Wisconsin.

B. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Rick L. Campbell, Angela Campbell Koonce, James Campbell, Cameron McElroy and Collin McElroy, all of Center, Texas*; as a group acting in concert (collectively the ''Campbell Group'') to retain 25 percent or more of the voting shares of Shelby Bancshares, Inc. (the ''Company''), the parent

holding company of Shelby Savings Bank, SSB, both of Center, Texas; and by Rick L. Campbell, individually to acquire 10 percent or more of the voting shares of the Company.

Board of Governors of the Federal Reserve System, September 20, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–20900 Filed 9–25–19; 8:45 am]

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FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Notice of Proposed Stock Redemption (FR 4008; OMB No. 7100–0131).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files. These documents also are available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are placed into OMB's public docket files.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Report title: Notice of Proposed Stock Redemption.

Agency form number: FR 4008.

OMB control number: 7100–0131.

Frequency: Event-generated.

Respondents: Bank holding companies.

Estimated number of respondents: 8.

Estimated average hours per response: 15.5 hours.

Estimated annual burden hours: 124 hours.

General description of report: The Bank Holding Company Act (BHC Act) and Board's Regulation Y require a bank holding company (BHC) to seek the prior approval of the Board before purchasing or redeeming its equity securities in certain circumstances. Due to the limited information that a BHC must provide in connection with any such request, there is no required reporting form (the FR 4008 designation is for internal purposes only), and each request for prior approval must be filed as a notification with the Reserve Bank that has direct supervisory responsibility for the requesting BHC. The Federal Reserve uses the information provided in the redemption notice to supervise BHCs.

Legal authorization and confidentiality: The FR 4008 is authorized pursuant to sections 5(b) and (c) of the BHC Act (12 U.S.C. 1844(b) and (c)). Section 5(b) of the BHC Act, as amended by section 616 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),[1] generally authorizes the Board to, among other things, issue capital regulations that are necessary to administer and carry out the purposes of the BHC Act and prevent evasions thereof. Section 5(c) of the BHC Act generally authorizes the Board to, among other things, require reports from BHCs on a range of issues. The FR 4008 is required for some BHCs to obtain the benefit of being able to purchase or redeem their equity securities.

Individual respondents may request that data submitted be kept confidential on a case-by-case basis. If a respondent requests confidential treatment, the Board will determine whether the information is entitled to confidential treatment on an ad hoc basis. Requests may include information related to the BHC's business operations, such as terms and sources of the funding for the redemption and pro forma balance sheets. This information may be kept confidential under exemption 4 of the Freedom of Information Act, which protects privileged or confidential commercial or financial information.[2]

Current actions: On June 17, 2019, the Board published a notice in the **Federal Register** (84 FR 28047) requesting public comment for 60 days on the extension, without revision, of the FR 4008. The comment period for this notice expired on August 16, 2019. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, September 23, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–20939 Filed 9–25–19; 8:45 am]

BILLING CODE 6210–01–P

[1] Public Law 111–203, 124 Stat. 1376 (2010).

[2] 5 U.S.C. 552(b)(4).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–855B]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by November 25, 2019.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ___, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–855 Medicare Enrollment Application for Clinics/Group Practices and Other Suppliers

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. Type of Information Collection Request: New collection (Request for a new OMB control number); *Title of Information Collection:* Medicare Enrollment Application for Clinics/Group Practices and Other Suppliers Revision; *Use:* The primary function of the CMS–855B Medicare enrollment application for suppliers, also known as Health Diagnosing and Treating Practitioners, is to gather information from the supplier that tells CMS who the supplier is, whether the supplier meets certain qualifications to be a Medicare health care provider or supplier, where the supplier practices or renders services, and other information necessary to establish correct claims payments.

The CMS–855B form includes an attachment for Opioid Treatment Programs (OTPs). This attachment is only used to capture the OTP personnel and consists of limited data fields (name, Social Security Number, National Provider Identifier, and license number) in response to the ''SUPPORT for Patients and Communities Act'' that was signed into law on October 24, 2018. This legislation was designed to alleviate the nationwide opioid crisis by: (1) Reducing the abuse and supply of opioids; (2) helping individuals recover from opioid addiction and supporting the families of these persons; and (3) establishing innovative and long-term solutions to the crisis. Section 2005 of the SUPPORT Act establishes a new Medicare Part B benefit for opioid use disorder (OUD) treatment services furnished by opioid treatment programs (OTPs) beginning on or after January 1, 2020. *Form Number:* CMS–855B (OMB control number: 0938–New); *Frequency:* Annually; *Affected Public:* Individuals and households; *Number of Respondents:* 327,696; *Total Annual Responses:* 327,696; *Total Annual Hours:* 522,041. For questions regarding this collection contact Kim McPhillips at 410–786–5374.

Dated: September 20, 2019.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2019–20871 Filed 9–25–19; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; State Court Improvement Program (OMB #0970–0307)

AGENCY: Children's Bureau, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting a three-year extension of the Court Improvement Program (CIP) Program Instruction, Strategic Plan Template, and Annual CIP Self-Assessment (OMB #0970–0307, expiration 9/30/2019). There are minimal updates to the form to reflect new legislation. The collections are necessary to continue operating the program in compliance with congressional reauthorization.

DATES: *Comments due within 30 days of publication.* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget Paperwork Reduction Project.

Email: OIRA_SUBMISSION@OMB.EOP.GOV.

Attn: Desk Officer for the Administration for Children and Families.

Copies of the proposed collection may be obtained by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The proposed collection is a continuation of the current collection and comprised of two components: An application including a strategic plan that is due once every five years, and an annual self-assessment. The next collection (annual self-assessment) will be due June 30, 2020. The next five-year application will be due in 2021.

Respondents: We anticipate the highest state court of every state, Puerto Rico and the US Virgin Islands to respond. All 52 jurisdictions currently participate in the program.

ANNUAL BURDEN ESTIMATES

Collection	Year	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Complete Application	2021	52	1	92	4784
Complete Program Assessment Report	2020	52	1	77	4004
	2021	52	1	77	4004
	2022	52	1	77	4004
Total					16,796

Estimated Total Annual Burden Hours: 4004 hours in 2020 and 2022; 8788 hours in 2021 (when both the self-assessment and the 5-year application are due within the year)

Authority: Sec. 50761, P.L. 115–123.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2019–20890 Filed 9–25–19; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–3935]

International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use Global Meeting on E8(R1) Guideline on General Considerations for Clinical Trials; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing a public meeting entitled ''International Council on Harmonisation (ICH) Global Meeting on E8(R1) Guideline on General Considerations for Clinical Trials.'' The purpose of the public meeting is to provide information on the draft revised E8(R1) Guideline ''General Considerations for Clinical Trials'' (ICH E8 Guideline) following the closing of the FDA comment period and closing of the regional consultations conducted in other ICH regions. The ICH E8 Guideline is being revised to provide updated guidance that is both appropriate and flexible enough to address the increasing diversity of clinical trial designs and data sources being employed to support regulatory and other health policy decisions, while retaining the underlying principles of human subject protection and data quality.

DATES: The public meeting will be held on Thursday, October 31, 2019, from 8:30 a.m. to 5 p.m. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public meeting will be held at FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, Rm. 1503 (the Great Room), Silver Spring, MD 20993–0002. The meeting will also be broadcast on the web, allowing participants to join in person or via the web. For those who will attend in person, the entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.* For those who register to attend the public meeting remotely via the webcast, a link to access the webcast will be emailed in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: Amanda Roache, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6364, Silver Spring, MD 20993–0002, 301–796–4548, Amanda.Roache@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The ICH was established in 1990 as a joint regulatory/industry project to improve, through harmonization, the efficiency of the process for developing and registering new medicinal products in Europe, Japan, and the United States without compromising the regulatory requirements for safety and effectiveness. One of the goals of harmonization is to identify and then reduce regional differences in technical regulatory requirements for pharmaceutical products while preserving a consistently high standard for drug efficacy, safety, and quality. This is accomplished through the development of internationally harmonized guidelines developed through a process of scientific consensus with regulatory and industry experts. FDA participates in ICH as a founding member and implements all ICH guidelines as FDA guidance.

In 2015, ICH was reformed to establish it as a true global initiative and to expand beyond the previous ICH members. More involvement from regulators around the world is expected, as they join counterparts from Europe, Japan, the United States, Canada, and Switzerland as ICH regulatory members and observers. Expanded involvement is also anticipated from global regulated pharmaceutical industry parties, joining as ICH industry members and observers. The reforms built on a 25-year track record and have allowed ICH to continue its successful delivery of harmonized guidelines for global pharmaceutical development and their regulation.

The ICH E8 Guideline sets out general principles on the conduct of clinical trials, was adopted in 1997, and has not undergone revision. Since its adoption, clinical trial design and conduct have become more complex, impacting the time and cost required to develop drugs. A wide range of both trial designs and data sources play a role in drug development and are not adequately addressed in the original ICH E8 Guideline. Approaches are needed for

optimizing trial quality, which promote the reliability, efficiency, and patient focus of clinical trials. This involves identifying the factors that are critical to the quality of a clinical trial at the design stage and planning the trial conduct proportionate to the risks to these quality factors, thereby protecting human subjects and ensuring the reliability of trial results. To resolve these issues, the ICH Assembly initiated a revision of the ICH E8 Guideline in November 2017 to provide updated guidance that is both appropriate and flexible enough to address the increasing diversity of clinical trial designs and data sources being employed to support regulatory and other health policy decisions, while retaining the underlying principles of human subject protection and data quality.

II. Topics for Discussion at the Public Meeting

The draft revised ICH E8 Guideline was endorsed by the ICH Assembly in May 2019 and made available for public comment. In the **Federal Register** of August 1, 2019 (84 FR 37649), FDA published a notice announcing the availability of a draft guidance entitled ''E8(R1) General Considerations for Clinical Studies'' (ICH E8(R1) Guideline) (available at *https://www.fda.gov/media/129527/download*). The notice gave interested persons an opportunity to submit comments by September 30, 2019. As part of a broader outreach process, ICH is holding public meetings before the finalization of the revised ICH E8(R1) Guideline. One of these public meetings will be hosted by FDA in Silver Spring, MD, on October 31, 2019 (see **DATES** and **ADDRESSES**). The purpose of the public meeting is to provide an overview of the new concepts presented in the revised ICH E8(R1) Guideline, allow for stakeholders who will be affected by the revised guideline to share their perspective, and allow for public input.

Public consultation is a standard part of all ICH guideline development, and it is conducted within each region of ICH Regulatory Members who commit to adoption of the finalized ICH guideline. This meeting is part of the ICH ''Good Clinical Practice (GCP) Renovation'' strategy to update the ICH guidelines related to clinical trial design, planning, management, and conduct, starting with the revision of the ICH E8 Guideline and followed by the revision of the ICH E6 Guideline for Good Clinical Practice. For more information, see the document ''ICH Reflection on 'GCP Renovation': Modernization of ICH E8 and Subsequent Renovation of ICH E6,'' available at *https://www.ich.org/fileadmin/Public_Web_Site/ICH_Products/Reflection_Papers/ICH_Reflection_paper_GCP_Renovation_Jan_2017_Final.pdf.*

III. Participating in the Public Meeting

Registration: Persons interested in attending this public meeting must register online by October 25, 2019, 11:59 p.m. Eastern Time. To register for the public meeting, please visit the following website: *https://globalichmeeting_e8r1_2019_americas.eventbrite.com.* Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone.

Registration is free and based on space availability, with priority given to early registrants. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization.

The agenda for the public meeting is available on the internet and can be viewed at the following link: *https://www.fda.gov/news-events/fda-meetings-conferences-and-workshops/ich-global-meeting-ich-e8r1-guideline-general-considerations-clinical-trials-10312019-10312019.*

If you need special accommodations due to a disability, please contact Amanda Roache (see **FOR FURTHER INFORMATION CONTACT**) no later than October 18, 2019.

Requests for Oral Presentations: If you wish to make a presentation during the public comment session, please contact Amanda Roache (see **FOR FURTHER INFORMATION CONTACT**) no later than October 18, 2019. Presentation slots may be limited and will be granted on a first-come, first-served basis. Any public presentations should be limited to 5 minutes or less. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations and request time for a joint presentation. If selected for presentation, any presentation materials must be emailed to Amanda Roache (see **FOR FURTHER INFORMATION CONTACT**) no later than October 24, 2019. No commercial or promotional material will be permitted to be presented or distributed at the public meeting. Signup for making a public comment during the meeting will also be available between 8 a.m. and 8:30 a.m. on the day of the meeting.

Streaming Webcast of the Public Meeting: This public meeting will also be webcast through the following link: *https://collaboration.fda.gov/ich103119/.* To register to attend via webcast, please visit the following website: *https://globalichmeeting_e8r1_2019_americas.eventbrite.com.*

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *https://www.adobe.com/go/connectpro_overview.* FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

Dated: September 23, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–20935 Filed 9–25–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–0994]

Modified Risk Tobacco Product Applications for VLN™ King and VLN™ Menthol King, Combusted, Filtered Cigarettes, Submitted by 22nd Century Group, Inc.; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; correction.

SUMMARY: The Food and Drug Administration is correcting a document entitled ''Modified Risk Tobacco Product Applications for VLN™ King and VLN™ Menthol King, Combusted, Filtered Cigarettes, Submitted by 22nd Century Group, Inc.'' that published in the **Federal Register** of July 25, 2019. The document announced the availability of modified risk tobacco product applications for public comment. The document published with incorrect submission tracking numbers. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Paul Hart, Center for Tobacco Products, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002, 1–877–287–1373, *AskCTP@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 25, 2019 (84 FR 35869), in FR Doc. 2019–15831, appearing on page 35869, the following correction is made:

1. On page 35870, in the third column, in the third full paragraph, the submission tracking numbers ''MR0000140: VLN™'' and

''MR0000141: VLN™ Menthol King'' are corrected to read ''MR0000159: VLN™'' and ''MR0000160: VLN™ Menthol King''.

Dated: September 20, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–20899 Filed 9–25–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–3769]

Providing Regulatory Submissions for Medical Devices in Electronic Format—Submissions Under Section 745A(b) of the Federal Food, Drug, and Cosmetic Act; Draft 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 the draft guidance entitled ''Providing Regulatory Submissions for Medical Devices in Electronic Format—Submissions Under Section 745A(b) of the Federal Food, Drug, and Cosmetic Act.'' Amendments to the Federal Food, Drug, and Cosmetic Act (FD&C Act) by the FDA Reauthorization Act of 2017 (FDARA) require that certain presubmissions and submissions for devices be submitted in electronic format specified by FDA beginning on such date as specified in final guidance. It also mandates that FDA issue draft guidance not later than October 1, 2019, providing for further standards for the submission by electronic format, a timetable for establishment of these further standards, and criteria for waivers of and exemptions from the requirements. In addition, in the Medical Device User Fee Amendments of 2017 (MDUFA IV) Commitment Letter from the Secretary of Health and Human Services to Congress, FDA committed to developing electronic submission templates and issuing a draft guidance on the topic. This guidance is intended to satisfy the draft guidance documents referenced in FDA regulations and the MDUFA IV Commitment Letter. This draft guidance is not final nor is it in effect at this time.

DATES: Submit either electronic or written comments on the draft guidance by November 25, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov/.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–D–3769 for ''Providing Regulatory Submissions in Electronic Format—Submissions Under Section 745A(b) of the Federal Food, Drug, and Cosmetic Act.'' 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 draft guidance document entitled ''Providing Regulatory Submissions for Medical Devices in Electronic Format—Submissions Under Section 745A(b) of the Federal Food, Drug, and Cosmetic Act'' to the Office of Policy, 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 to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), 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: Jacqueline Gertz, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave. Bldg. 66, Rm. 1655, Silver Spring, MD 20993, 240–402–9677; 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, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

Section 745A(b) of the FD&C Act (21 U.S.C. 379k–1(b)), amended by section 207 of FDARA (Pub. L. 115–52), requires that presubmissions and submissions for devices under section 510(k), 513(f)(2)(A), 515(c), 515(d), 515(f), 520(g), 520(m), or 564 of the FD&C Act (21 U.S.C. 360(k), 360c(f)(2)(A), 360e(c), 360e(d), 360e(f), 360j(g), 360j(m), or 360bbb-3) or section 351 of the Public Health Service Act (42 U.S.C. 262), and any supplements to such presubmissions or submissions, including appeals of those submissions, be submitted in electronic format specified by FDA, beginning on such date as specified by FDA in final guidance. It also mandates that FDA issue draft guidance not later than October 1, 2019, providing for further standards for the submission by electronic format, a timetable for establishment of these further standards, and criteria for waivers of and exemptions from the requirements. In addition, in the MDUFA IV Commitment Letter [1] from the Secretary of Health and Human Services to Congress, FDA committed to developing ''electronic submission templates that will serve as guided submission preparation tools for industry to improve submission consistency and enhance efficiency in the review process'' and ''by FY [fiscal year] 2020, the Agency will issue a draft guidance document on the use of the electronic submission templates.'' This guidance is intended to satisfy the draft guidance documents referenced in in section 745A(b)(3) of the FD&C Act and the MDUFA IV Commitment Letter.

The Agency has concluded that it is not feasible to describe and implement the electronic format(s) that would apply to all the submissions covered by section 745A(b) of the FD&C Act in one guidance document. Accordingly, this guidance describes how FDA interprets and plans to implement the requirements of section 745A(b)(3) of the FD&C Act, while individual guidances will be developed to specify the formats for specific submissions and corresponding timetables for implementation. Specifically, this guidance discusses: (1) The submission types that must be submitted electronically, (2) criteria for waivers of and exemptions from the submissions in electronic format requirements, and (3) the timetable and process for implementing the requirements.

II. Significance of Guidance

In section 745A(b) of the FD&C Act, Congress granted explicit statutory authorization to FDA to specify in guidance the statutory requirement for electronic submissions solely in electronic format by providing standards, a timetable, and criteria for waivers and exemptions. To the extent that this document provides such requirements under section 745A(b)(3) of the FD&C Act (*i.e.,* standards, timetable, criteria for waivers of and exemptions), indicated by the use of the mandatory words, such as must or required, this document is not subject to the usual restrictions in FDA's good guidance practice regulations, such as the requirement that guidances not establish legally enforceable responsibilities. (See 21 CFR 10.115(d).)

However, this document also contains guidance on additional submission types for which submission in electronic format is not required. To the extent that this guidance describes recommendations that are not standards, timetable, criteria for waivers of, or exemptions under section 745A(b)(3), it is being issued in accordance with FDA's good guidance practices regulation (21 CFR 10.115). Such parts of this guidance, when finalized, will represent the Agency's current thinking on this topic, and do not create or confer any rights for or on any person and do not operate to bind FDA or the public. An alternative approach may be used for these recommendations if such an approach satisfies the requirements of the applicable statutes and regulations. This draft guidance contains both binding and nonbinding provisions. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the draft 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/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov* or *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances.* Persons unable to download an electronic copy of ''Providing Regulatory Submissions in Electronic Format—Submissions Under Section 745A(b) of the Federal Food, Drug, and Cosmetic Act'' may send an email request to *CDRH-Guidance@fda.hhs.*gov to receive an electronic copy of the document. Please use the document number 19031 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft 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 and guidances have been approved by OMB as listed in the following table:

21 CFR part or guidance	Topic	OMB control No.
807, subpart E	Premarket Notification	0910–0120
814, subparts A through E	Premarket Approval Application	0910–0231
814, subpart H	Humanitarian Device Exemption	0910–0332
812	Investigational Device Exemption	0910–0078
''De Novo Classification Process (Evaluation of Automatic Class III Designation)''.	De Novo Classification Process	0910–0844

[1] *https://www.fda.gov/media/102699/download.*

21 CFR part or guidance	Topic	OMB control No.
''FDA and Industry Procedures for Section 513(g) Requests for Information under the Federal Food, Drug, and Cosmetic Act''.	513(G) Request For Information	0910–0705
''Requests for Feedback on Medical Device Submissions: The Q-Submission Program and Meetings with Food and Drug Administration Staff''.	Q-Submissions	0910–0756
800, 801, and 809	Medical Device Labeling Regulations	0910–0485
''Humanitarian Device Exemption Regulation: Q&As''	Humanitarian Device Exemption Applications and Annual Distribution Number Reporting Requirements.	0910–0661
''Emergency Use Authorization of Medical Products''	Emergency Use Authorization	0910–0595
601	Biologics License Applications	0910–0338
312	Investigational New Drug Regulations	0910–0014
''Recommendations for Clinical Laboratory Improvement Amendments of 1988 (CLIA) Waiver Applications for Manufacturers of In Vitro Diagnostic Devices''.	CLIA Waiver Applications	0910–0598
''Administrative Procedures for Clinical Laboratory Improvement Amendments of 1988 Categorization''.	CLIA Categorizations	0910–0607
820	Current Good Manufacturing Practice (CGMP); Quality System (QS) Regulation.	0910–0073

Dated: September 23, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–20949 Filed 9–25–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1427]

Agency Information Collection Activities; Proposed Collection; Comment Request; Hazard Analysis and Critical Control Point Procedures for the Safe and Sanitary Processing and Importing of Juice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the collection provisions of our regulations mandating the application of hazard analysis and critical control point (HACCP) principles to the processing of fruit and vegetable juices.

DATES: Submit either electronic or written comments on the collection of information by November 25, 2019.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before November 25, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of November 25, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2013–N–1427 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Hazard Analysis and Critical Control Point Procedures for the Safe and Sanitary Processing and Importing of Juice.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states

''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Hazard Analysis and Critical Control Point (HACCP) Procedures for the Safe and Sanitary Processing and Importing of Juice—21 CFR Part 120

OMB Control Number 0910–0466—Extension

FDA's regulations in part 120 (21 CFR part 120) mandate the application of HACCP procedures to the processing of fruit and vegetable juices. HACCP is a preventative system of hazard control designed to help ensure the safety of foods. The regulations were issued under FDA's statutory authority to regulate food safety under section 402(a)(4) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 342(a)(4)). Under section 402(a)(4) of the FD&C Act, a food is adulterated if it is prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth or rendered injurious to health. The Agency also has authority under section 361 of the Public Health Service Act (42 U.S.C. 264) to issue and enforce regulations to prevent the introduction, transmission, or spread of communicable diseases from one State, territory, or possession to another, or from outside the United States into this country. Under section 701(a) of the FD&C Act (21 U.S.C. 371(a)), FDA is authorized to issue regulations for the efficient enforcement of that act.

Under HACCP, processors of fruit and vegetable juices establish and follow a preplanned sequence of operations and observations (the HACCP plan) designed to avoid or eliminate one or more specific food hazards, and thereby ensure that their products are safe, wholesome, and not adulterated; in compliance with section 402 of the FD&C Act. Information development and recordkeeping are essential parts of any HACCP system. The information collection requirements are narrowly tailored to focus on the development of appropriate controls and document those aspects of processing that are critical to food safety.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section; activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
120.6(c) and 120.12(a)(1) and (b); Require written monitoring and correction records for Sanitation Standard Operating Procedures.	1,875	365	684,375	0.1 (6 minutes)	68,438
120.7; 120.10(a); and 120.12(a)(2), (b) and (c); require written hazard analysis of food hazards.	2,300	1.1	2,530	20	50,600
120.8(b)(7) and 120.12(a)(4)(i) and (b); require a recordkeeping system that documents monitoring of the critical control points and other measurements as prescribed in the HACCP plan.	1,450	14,600	21,170,000	0.01 (1 minute)	211,700
120.10(c) and 120.12(a)(4)(ii) and (b); require that all corrective actions taken in response to a deviation from a critical limit be documented.	1,840	12	22,080	0.1 (6 minutes)	2,208

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]—Continued

21 CFR Section; activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
120.11(a)(1)(iv) and (a)(2) and 120.12 (a)(5) and (b); require records showing that process monitoring instruments are properly calibrated and that end product or in-process testing is performed in accordance with written procedures.	1,840	52	95,680	0.1 (6 minutes)	9,568
120.11(b) and (c); and 120.12(a)(5) and (b); require that every processor record the validation that the HACCP plan is adequate to control food hazards that are likely to occur.	1,840	1	1,840	4	7,360
120.11(c) and 120.12(a)(5) and (b); require documentation of revalidation of the hazard analysis upon any changes that might affect the original hazard analysis (applies when a firm does not have a HACCP plan because the original hazard analysis did not reveal hazards likely to occur.	1,840	1	1,840	4	7,360
120.14(a)(2), (c), and (d) and 120.12(b); require that importers of fruit or vegetable juices, or their products used as ingredients in beverages, have written procedures to ensure that the food is processed in accordance with our regulations in part 120.	308	1	308	4	1,232
120.8(a), 120.8(b), and 120.12(a)(3), (b), and (c); require written HACCP plan.	1,560	1.1	1,716	60	102,960
Total			21,980,369		461,426

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Table 1 provides our estimate of the total annual recordkeeping burden of our regulations in part 120. Our estimate remains unchanged since last review of the information collection. We base our estimate of the average burden per recordkeeping on our experience with the application of HACCP principles in food processing. We base our estimate of the number of recordkeepers on our estimate of the total number of juice manufacturing plants affected by the regulations (plants identified in our official establishment inventory plus very small apple juice and very small orange juice manufacturers). These estimates assume that every processor will prepare sanitary standard operating procedures and an HACCP plan and maintain the associated monitoring records, and that every importer will require product safety specifications. In fact, there are likely to be some small number of juice processors that, based upon their hazard analysis, determine that they are not required to have an HACCP plan under these regulations.

Dated: September 18, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–20937 Filed 9–25–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by Section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of HHS is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact Lisa L. Reyes, Clerk of Court, United States Court of Federal Claims, 717 Madison Place NW, Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 08N146B, Rockville, Maryland 20857; (301) 443–6593, or visit our website at: *http://www.hrsa.gov/vaccinecompensation/index.html.*

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the United States Court of Federal Claims and to serve a copy of the petition to the Secretary of HHS, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in

the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines. Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on August 1, 2019, through August 31, 2019. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction. Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the United States Court of Federal Claims at the address listed above (under the heading **FOR FURTHER INFORMATION CONTACT**), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Healthcare Systems Bureau, 5600 Fishers Lane, 08N146B, Rockville, Maryland 20857. The Court's caption (Petitioner's Name v. Secretary of HHS) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Dated: September 19, 2019.

Thomas J. Engels,

Acting Administrator.

List of Petitions Filed

1. Richard Watts and Tiffani Watts on behalf of R. W., Chicago, Illinois, Court of Federal Claims No: 19–1119V
2. Ann Marie Moritz, Depew, New York, Court of Federal Claims No: 19–1120V
3. Joel Lemieux, Auburn Hills, Michigan, Court of Federal Claims No: 19–1121V
4. Michelle Carroll on behalf of J.W., Drexel Hill, Pennsylvania, Court of Federal Claims No: 19–1125V
5. Marie Bruno, Boston, Massachusetts, Court of Federal Claims No: 19–1126V
6. Kennedy Deese, Charlotte, North Carolina, Court of Federal Claims No: 19–1127V
7. Natacha Jacques, South Pasadena, Florida, Court of Federal Claims No: 19–1128V
8. Kathy Brimner, Cranberry Township, Pennsylvania, Court of Federal Claims No: 19–1129V
9. Natalie Sternal, Dallas, Texas, Court of Federal Claims No: 19–1130V
10. Tamya Graham, Wilmington, Delaware, Court of Federal Claims No: 19–1132V
11. Ethel Love, Waterloo, Iowa, Court of Federal Claims No: 19–1134V
12. Candy Larue, Niagara Falls, New York, Court of Federal Claims No: 19–1135V
13. Brian Hicks, Winter Haven, Florida, Court of Federal Claims No: 19–1139V
14. Markitta Simmons on behalf of S.S., Tullahoma, Tennessee, Court of Federal Claims No: 19–1140V
15. Samantha Hall, Newtown Square, Pennsylvania, Court of Federal Claims No: 19–1141V
16. Catherine Jones, Farmville, Virginia, Court of Federal Claims No: 19–1143V
17. Morgan Magyar, Washington, District of Columbia, Court of Federal Claims No: 19–1144V
18. Nikki Rudd, Rochester, New York, Court of Federal Claims No: 19–1146V
19. Janice Aragon, San Antonio, Texas, Court of Federal Claims No: 19–1148V
20. Richard Parsons, Churchville, New York, Court of Federal Claims No: 19–1150V
21. Traci Stafford, Weatherford, Texas, Court of Federal Claims No: 19–1152V
22. Herman Sanders, Atlanta, Georgia, Court of Federal Claims No: 19–1153V
23. Kathleen C. Thomas, Waco, Texas, Court of Federal Claims No: 19–1154V
24. Frederick J. Kelly, Blue Springs, Missouri, Court of Federal Claims No: 19–1155V
25. Nikola Zaturoski, Montville, New Jersey, Court of Federal Claims No: 19–1156V
26. Elizabeth Gruba, Loganville, Georgia, Court of Federal Claims No: 19–1157V
27. Morgan Adele Garrison, Goodlettsville, Tennessee, Court of Federal Claims No: 19–1161V
28. Joel Williams, Holland, Ohio, Court of Federal Claims No: 19–1163V
29. Brent Kejr on behalf of Channing Kejr, Salina, Kansas, Court of Federal Claims No: 19–1166V
30. Glendon G. Dockery, Fishkill, New York, Court of Federal Claims No: 19–1170V
31. Sindy Caridi, Ormond Beach, Florida, Court of Federal Claims No: 19–1174V
32. Valarie Williams, Washington, District of Columbia, Court of Federal Claims No: 19–1177V
33. William Starnes, Washington, District of Columbia, Court of Federal Claims No: 19–1181V
34. Jody Madala, Rockaway, New Jersey, Court of Federal Claims No: 19–1182V
35. Dora Sugranez, Pleasantville, New Jersey, Court of Federal Claims No: 19–1183V
36. John Casey, Boston, Massachusetts, Court of Federal Claims No: 19–1184V
37. Deborah McNabb, Boston, Massachusetts, Court of Federal Claims No: 19–1185V
38. Joanne Rivers, Sumter, South Carolina, Court of Federal Claims No: 19–1186V
39. Loan Nguyen, Washington, District of Columbia, Court of Federal Claims No: 19–1188V
40. Rebecca Alger, Milford, Massachusetts, Court of Federal Claims No: 19–1190V
41. Emily Bailey, Lutherville, Maryland, Court of Federal Claims No: 19–1191V
42. William Brumbach, Lincolnwood, Illinois, Court of Federal Claims No: 19–1192V
43. Kristopher Grymonpre, Braintree, Massachusetts, Court of Federal Claims No: 19–1193V
44. Stacey Maslyn, Chesapeake, Virginia, Court of Federal Claims No: 19–1194V
45. Linda Leasure, Streetsboro, Ohio, Court of Federal Claims No: 19–1195V
46. Joy M. Freiberg, Los Angeles, California, Court of Federal Claims No: 19–1196V
47. Shirley R. Miller, Moab, Utah, Court of Federal Claims No: 19–1197V
48. Karen Garner, Bellevue, Washington, Court of Federal Claims No: 19–1198V
49. Jennifer Naegel, Cincinnati, Ohio, Court of Federal Claims No: 19–1199V
50. Koy T. Phan, San Ramon, California, Court of Federal Claims No: 19–1200V
51. Carolyn Deane, Peculiar, Missouri, Court of Federal Claims No: 19–1201V
52. Marcia Hagen, Tempe, Arizona, Court of Federal Claims No: 19–1213V
53. Katerina Novitskaya on behalf of N.G., Palo Alto, California, Court of Federal Claims No: 19–1214V
54. Susan Collins, Wilmington, Delaware, Court of Federal Claims No: 19–1216V
55. Larry Bulman, Natick, Massachusetts, Court of Federal Claims No: 19–1217V
56. Susan T. Russell, Spring Valley, California, Court of Federal Claims No: 19–1219V
57. Joshua Monnens and Elisabeth Monnens on behalf of R.M., Gilbert, Arizona, Court of Federal Claims No: 19–1220V
58. Jennifer Paul on behalf of Bryan Paul, Middle Village, New York, Court of Federal Claims No: 19–1221V
59. Thomas Hohenstein, Columbia, New Jersey, Court of Federal Claims No: 19–1222V
60. Sharon Rosacker, Fayetteville, North Carolina, Court of Federal Claims No: 19–1225V
61. Dana Mack, Philadelphia, Pennsylvania, Court of Federal Claims No: 19–1226V

62. Bertha Smith on behalf of Donald Smith, Deceased, San Mateo, California, Court of Federal Claims No: 19–1227V
63. Shelby Bolitho and Christopher Bolitho on behalf of J.B., Birmingham, Michigan, Court of Federal Claims No: 19–1229V
64. John Patrick Chard, San Juan Capistrano, California, Court of Federal Claims No: 19–1230V
65. Cherylene Jackson, Charlotte, North Carolina, Court of Federal Claims No: 19–1232V
66. Gerald Parker, Placerville, California, Court of Federal Claims No: 19–1233V
67. Jan Montesano, Boston, Massachusetts, Court of Federal Claims No: 19–1235V
68. Fernarnda Doxzon, Fort Hood, Texas, Court of Federal Claims No: 19–1236V
69. Bruce Lasiter, Powell, Tennessee, Court of Federal Claims No: 19–1237V
70. Emily Bruhl, New York, New York, Court of Federal Claims No: 19–1240V
71. Leroy J. Stoutenburg, III, Powder Springs, Georgia, Court of Federal Claims No: 19–1243V
72. Nicholas Antoniades and Brenda Antoniades on behalf of A.A., Santee, California, Court of Federal Claims No: 19–1244V
73. Jennifer Riley, Wellington, Ohio, Court of Federal Claims No: 19–1245V
74. Chrisopher Gromala, Marinette, Wisconsin, Court of Federal Claims No: 19–1247V
75. Juliana Forster, Gallatin, Tennessee, Court of Federal Claims No: 19–1248V
76. Becky Benvenuti, New Market, Ohio, Court of Federal Claims No: 19–1249V
77. Teresa Garcia, Modesto, California, Court of Federal Claims No: 19–1250V
78. Adele Honeyman, Salem, Oregon, Court of Federal Claims No: 19–1252V
79. Kim Bankowski, Denton, Texas, Court of Federal Claims No: 19–1253V
80. Doretha Robinson, Baltimore, Maryland, Court of Federal Claims No: 19–1254V
81. Wesley Greene, Mechanicsburg, Pennsylvania, Court of Federal Claims No: 19–1255V
82. Ann Marie Moritz, Depew, New York, Court of Federal Claims No: 19–1256V
83. Patricia Trask, Belfast, Maine, Court of Federal Claims No: 19–1257V
84. Torrey Seely, Aberdeen, Maryland, Court of Federal Claims No: 19–1258V
85. Brian Valentine, Mountain Lakes, New Jersey, Court of Federal Claims No: 19–1259V
86. Bonnie Cushman, Johnstown, Colorado, Court of Federal Claims No: 19–1261V
87. Michael Postlewait, Aston, Pennsylvania, Court of Federal Claims No: 19–1262V
88. Christine Barton, Parkton, Maryland, Court of Federal Claims No: 19–1264V
89. Michael Vang, Fox Lake, Wisconsin, Court of Federal Claims No: 19–1265V
90. Michael Ray Williams, Franklin, Tennessee, Court of Federal Claims No: 19–1269V
91. Julie Wiltse, Cincinnati, Ohio, Court of Federal Claims No: 19–1273V
92. J'nhia Rutledge, Greece, New York, Court of Federal Claims No: 19–1277V
93. Tonya E. Dixon, Norfolk, Virginia, Court of Federal Claims No: 19–1279V
94. Stephanie Vickers, Washington, District of Columbia, Court of Federal Claims No: 19–1280V
95. Robert Harshberger, Washington, District of Columbia, Court of Federal Claims No: 19–1281V
96. Glorse McPhee, Lakeland, Florida, Court of Federal Claims No: 19–1282V
97. Kirk Richardson, Washington, District of Columbia, Court of Federal Claims No: 19–1283V
98. Chloe Lemay-Assh, Roseville, California, Court of Federal Claims No: 19–1284V
99. Sally J. Silver, Concord, New Hampshire, Court of Federal Claims No: 19–1285V
100. Halie Lange, Brattleboro, Vermont, Court of Federal Claims No: 19–1287V
101. Dung Tran, Boston, Massachusetts, Court of Federal Claims No: 19–1288V
102. Michelle Schneider, Slidell, Louisiana, Court of Federal Claims No: 19–1289V
103. Aziza Adams, Seattle, Washington, Court of Federal Claims No: 19–1290V
104. Amy Gallanter, Cumming, Georgia, Court of Federal Claims No: 19–1291V
105. Luzmila Berumen, Mission Viejo, California, Court of Federal Claims No: 19–1292V
106. Vito Cantu, Dallas, Texas, Court of Federal Claims No: 19–1293V
107. Judy Ho and Jason Phung on behalf of J. P., San Mateo, California, Court of Federal Claims No: 19–1294V
108. Kelly Green on behalf of D.W.G., Las Vegas, Nevada, Court of Federal Claims No: 19–1295V
109. Catherine Cutrone, Washington, District of Columbia, Court of Federal Claims No: 19–1297V
110. Allyson Lavigne, Washington, District of Columbia, Court of Federal Claims No: 19–1298V
111. Arlyn Halpern, Washington, District of Columbia, Court of Federal Claims No: 19–1299V
112. Brenda Kearns, Washington, District of Columbia, Court of Federal Claims No: 19–1300V
113. Martha Buck, Washington, District of Columbia, Court of Federal Claims No: 19–1301V
114. Tomas Paredes, Phoenix, Arizona, Court of Federal Claims No: 19–1306V
115. Timothy Williams, Rancho Santa Margarita, California, Court of Federal Claims No: 19–1307V
116. Melissa Cast, Jacksonville, Florida, Court of Federal Claims No: 19–1310V
117. Mary Goble Thomas, Denver, Colorado, Court of Federal Claims No: 19–1311V
118. Scott Ayre, South Portland, Maine, Court of Federal Claims No: 19–1312V
119. Anna Sinopoli, Valhalla, New York, Court of Federal Claims No: 19–1313V
120. Philip Herman, White Plains, New York, Court of Federal Claims No: 19–1314V
121. Thomas E. Williams, Rancho Santa Margarita, California, Court of Federal Claims No: 19–1315V
122. Ingrid Galan, New York, New York, Court of Federal Claims No: 19–1316V
123. Bamba Cotton, Aurora, Indiana, Court of Federal Claims No: 19–1317V
124. Eric Punswick and Karen Punswick on behalf of A.P., Overland Park, Kansas, Court of Federal Claims No: 19–1318V
125. Daniel Reed, Harrisburg, Pennsylvania, Court of Federal Claims No: 19–1319V
126. Alfred Leidner, Philadelphia, Pennsylvania, Court of Federal Claims No: 19–1320V
127. Leia A. Prause, Spring, Texas, Court of Federal Claims No: 19–1322V
128. Merry Engel, Greensboro, North Carolina, Court of Federal Claims No: 19–1324V
129. Ann M. Horgan, East Greenwich, Rhode Island, Court of Federal Claims No: 19–1326V
130. Sarah Baker and Scott Baker on behalf of C.B., Deceased, Twin Falls, Idaho, Court of Federal Claims No: 19–1327V
131. Samantha Agar Smith Lowe on behalf of D.M., Hyde Park, New York, Court of Federal Claims No: 19–1330V
132. Terry Petty, Philadelphia, Pennsylvania, Court of Federal Claims No: 19–1332V
133. Sandra Meador, Philadelphia, Pennsylvania, Court of Federal Claims No: 19–1333V
134. Debra Lambert, Conshohocken, Pennsylvania, Court of Federal Claims No: 19–1335V
135. Kristi Dzurick, Winona, Minnesota, Court of Federal Claims No: 19–1336V
136. Ella Griffin, Houston, Texas, Court of Federal Claims No: 19–1337V

[FR Doc. 2019–20922 Filed 9–25–19; 8:45 am]

BILLING CODE 4165–15–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; P41 BTRC Review C SEP.

Date: November 17–19, 2019.

Time: 6:00 p.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Oread Hotel, 1200 Oread Ave., Lawrence, KS 66044.

Contact Person: Manana Sukhareva, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering,

National Institutes of Health, 6707 Democracy Boulevard., Suite 959, Bethesda, MD 20892, (301) 451–3397, *sukharem@mail.nih.gov*.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; P41 BTRC Review D SEP.

Date: November 20–22, 2019.

Time: 6:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Aloft Tucson University, 1900 E Speedway Blvd., Tucson, AZ 85719.

Contact Person: John K. Hayes, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Boulevard, Suite 958, Bethesda, MD 20892, (301) 451–4794, *hayesj@nih.gov*.

Dated: September 20, 2019.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–20889 Filed 9–25–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Environmental Health Sciences Review Committee.

Date: October 30, 2019.

Time: 8:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Fairfield Inn and Suites Durham Southpoint, 7807 Leonardo Drive, Durham, NC 27713.

Contact Person: Linda K Bass, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute Environmental Health Sciences, P. O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 984–287–3236, *bass@niehs.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS).

Dated: September 20, 2019.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–20896 Filed 9–25–19; 8:45 am]

BILLING CODE 4140–01–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; P41 BTRC Review B SEP.

Date: October 20–22, 2019.

Time: 6:00 p.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton New York Times Square Hotel, 811 7th Avenue 53rd Street, New York, NY 10019.

Contact Person: Ruixia Zhou, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Boulevard, Suite 957, Bethesda, MD 20892, (301) 496–4773, *zhour@mail.nih.gov*.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; Career Development (Ks) and Conference Support (R13) Review.

Date: October 31, 2019.

Time: 9:30 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: John P. Holden, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Boulevard, Suite 920, Bethesda, MD 20892, (301) 496–8775, *john.holden@nih.gov*.

Dated: September 23, 2019.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–20964 Filed 9–25–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; 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: National Institute on Minority Health and Health Disparities Special Emphasis Panel for Review of Conference Grant (R13) Applications.

Date: October 17, 2019.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Plaza, 7201 Wisconsin Ave., Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Deborah Ismond, Ph.D., Scientific Review Officer, Division of Scientific Programs, NIMHD, National Institutes of Health, 7201 Wisconsin Ave., Bethesda, MD 20892, (301) 402–1366 *ismonddr@mail.nih.gov*.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel; NIMHD Mentored Career Development Awards (Ks).

Date: November 5, 2019.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Suite 525, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Xinli Nan, MD, Ph.D., Scientific Review Officer, National Institute on Minority Health and Health Disparities, National Institutes of Health, Scientific Review Branch, OERA, 7201 Wisconsin Ave., Bethesda, MD 20892, (301) 594–7784 *Xinli.Nan@nih.gov*.

Dated: September 20, 2019.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–20892 Filed 9–25–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6083–N–04]

Notice of a Federal Advisory Committee Meeting Manufactured Housing Consensus Committee

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice of a Federal Advisory Committee meeting: Manufactured Housing Consensus Committee (MHCC).

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the MHCC. The meeting is open to the public and the site is accessible to individuals with disabilities. The agenda provides an opportunity for citizens to comment on the business before the MHCC.

DATES: The meeting will be held on October 29 through October 31, 2019, 9:00 a.m. to 5:00 p.m. Eastern Daylight Time (EDT) daily.

ADDRESSES: The meeting will be held at the Holiday Inn Washington—Capitol, 550 C Street SW, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Teresa B. Payne, Administrator, Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 7th Street SW, Room 9166, Washington, DC 20410, telephone (202) 708–6423 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay at (800) 877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5. U.S.C. App. 10(a)(2) through implementing regulations at 41 CFR 102–3.150. The MHCC was established by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5403(a)(3), as amended by the Manufactured Housing Improvement Act of 2000, (Pub. L. 106–569). According to 42 U.S.C. 5403, as amended, the purposes of the MHCC are to:

- Provide periodic recommendations to the Secretary to adopt, revise, and interpret the Federal manufactured housing construction and safety standards in accordance with this subsection;
- Provide periodic recommendations to the Secretary to adopt, revise, and interpret the procedural and enforcement regulations, including regulations specifying the permissible scope and conduct of monitoring in accordance with subsection (b);
- Be organized and carry out its business in a manner that guarantees a fair opportunity for the expression and consideration of various positions and for public participation.

The MHCC is deemed an advisory committee not composed of Federal employees.

Public Comment

Citizens wishing to make comments on the business of the MHCC must register by or before Monday, October 21, 2019, by contacting Home Innovation Research Labs; *Attention:* Kevin Kauffman, 400 Prince Georges Blvd., Upper Marlboro, MD 20774, or email to *mhcc@homeinnovation.com* or call 1–888–602–4663. With advanced registration, members of the public will have an opportunity to provide oral or written comments relative to agenda topics for the MHCC's consideration. For the MHCC meeting, the written comments must be provided no later than October 21, 2019 to *mhcc@homeinnovation.com*. Please note, written statements submitted will not be read during the meeting but will be provided to the MHCC members prior to the meeting. The MHCC will also provide an opportunity for oral public comments on specific matters before the MHCC. The total amount of time for oral comments will be 15 minutes with each commenter limited to two minutes to ensure pertinent MHCC business is completed. The MHCC will not respond to individual written or oral statements; however, it will take all public comments into account in its deliberations. The MHCC strives to accommodate citizen comments to the extent possible within the time constraints of the meeting agenda.

Tentative Agenda

Tuesday, October 29, 2019

I. Call to Order—Chair & Designated Federal Officer (DFO)
II. Opening Remarks—Chair & HUD
  A. Roll Call—Administering Organization (AO)
  B. Introductions
  i. HUD Staff
  ii. Guests
  C. Administrative Announcements—DFO & AO
III. Approve Draft Minutes from April 30–May 2, 2019, MHCC meeting
IV. Public Comment Period—15 minutes
V. Update from General Subcommittee to the MHCC
VI. Break
VII. Update from Regulatory Enforcement Subcommittee to the MHCC
VIII. Lunch
IX. Continue Review of Current Log & Action Items or Subcommittee Meetings
X. Break
XI. Regulatory Enforcement Subcommittee Meeting
  Log Item Category:
  - Procedural and Enforcement Regulations: LOG 195

  Deregulation Comment pending regulatory language:
  - DRC 4

XII. Public Comment Period—15 minutes
XIII. Daily Wrap Up—DFO & AO
XIV. Adjourn

Wednesday, October 30, 2019

I. Reconvene Meeting—Chair & Designated Federal Officer (DFO)
II. Opening Remarks—Chair
  A. Roll Call—Administering Organization (AO)
III. Public Comment Period—15 minutes
IV. Update from Regulatory Enforcement or Review Current Log & Action Items
V. Break
VI. Continue Review of Current Log & Action Items or Subcommittee Meetings
VII. Lunch
VIII. Structure & Design Subcommittee Meeting
  Deregulation Comment Category:
  - Foundation Requirements: DRC 155, DRC 159, DRC 160, DRC 161, DRC 162, DRC 163, DRC 164, DRC 165, DRC 166, DRC 167, DRC 168, DRC 180, DRC 181, DRC 182, DRC 183

  Log Items Categories:
  - 3280 Subpart A—General: LOG 193
  - 3280 Subpart B—Planning Considerations: LOG 173
  - 3280 Subpart C—Fire Safety: LOG 174, LOG 196
  - 3280 Subpart E—Testing: LOG 197, LOG 202, LOG 203, LOG 204, LOG 206

IX. Break
X. General Subcommittee Meeting
  Deregulation Comments pending regulatory language:
  - DRC 64, DRC 281, DRC 284

XI. Technical Systems Subcommittee Meeting
  Log Items Category:
  - 3280 Subpart F—Thermal Protection: LOG 205

XII. Public Comment Period—15 minutes
XIII. Daily Wrap Up—DFO
XIV. Adjourn

Thursday, October 31, 2019

I. Reconvene Meeting—Chair & Designated Federal Officer (DFO)
II. Opening Remarks—Chair
A. Roll Call—Administering Organization (AO)
III. Update from Subcommittees to the MHCC
IV. Break
V. Continue Review of Current Log & Action Items or Subcommittee Meetings
VI. Public Comment Period—15 minutes
VII. Daily Wrap Up—DFO & AO
VIII. Adjourn

Dated: September 20, 2019.

John L. Garvin,

General Deputy Assistant Secretary for Housing.

[FR Doc. 2019–20906 Filed 9–25–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM954000.L14400000.BJ0000. 19XL1109AF]

Notice of Filing of Plat of Survey, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plat of survey of the following described land is scheduled to be officially filed 30 days after the date of this publication in the Bureau of Land Management (BLM), New Mexico Office, Santa Fe, New Mexico. The survey announced in this notice is necessary for the management of lands administered by the agency indicated.

ADDRESSES: This plat will be available for inspection in the New Mexico Office, Bureau of Land Management, 301 Dinosaur Trail, Santa Fe, New Mexico 87508. Protests of the survey should be sent to the New Mexico Director at the above address.

FOR FURTHER INFORMATION CONTACT: Jacob B. Barowsky, Chief Cadastral Surveyor (acting); (505) 954–2033; *jbarowsky@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

New Mexico Principal Meridian, New Mexico

The plat, in two (2) sheets, representing the dependent resurvey of portions of the Tesuque Pueblo Grant, certain private claim boundaries, portions of tracts, sections 24 and 25; and the subdivision of section 24, in Township 18 North, Range 9 East, accepted September 12, 2019, for Group 934, New Mexico.

This plat was prepared at the request of the Bureau of Indian Affairs.

A person or party who wishes to protest against this survey must file a written notice of protest within 30 calendar days from the date of this publication with the New Mexico Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within 30 days after the protest is filed. Before including your address, or other personal information in your protest, please be aware that your entire protest, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 U.S.C. Chap 3.

Jacob Barowsky,

Acting Chief Cadastral Surveyor of New Mexico, Oklahoma, Texas and Kansas.

[FR Doc. 2019–20902 Filed 9–25–19; 8:45 am]

BILLING CODE 4310–FB–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1130]

Certain Beverage Dispensing Systems and Components Thereof Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge has issued an Initial Determination on Violation of Section 337 and a Recommended Determination on Remedy and Bond in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief, specifically a limited exclusion order and cease and desist orders. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to Commission rules.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2532. The public version of the complaint can be accessed on the Commission's electronic docket (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 (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

> unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

On September 5, 2019, the administrative law judge (''ALJ'') issued the Initial Determination on Violation of Section 337 (''ID''). The ID finds a violation of section 337 as a result of the infringement of claims 1,3, 7, and 10 of U.S. Patent No. 7,188,751 (''the '751 patent''). On September 19, 2019, the ALJ issued the Recommended Determination on Remedy and Bond (''RD''). The RD recommends that if the Commission finds a violation of section 337 that the Commission issue a limited exclusion order as to infringing beverage dispensing systems and components thereof, and cease and desist orders to respondents. The RD further recommends a bond of five percent of

the entered value of subject articles during the Presidential review period.

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4). In addition, members of the public are hereby invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ's Recommended Determination. Comments should address whether issuance of a limited exclusion order and cease and desist orders in this investigation directed to respondents' infringing products 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 recommended orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended 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 recommended exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the limited exclusion order and cease and desist orders would impact consumers in the United States.

Written submissions from the public must be filed no later than by close of business on Monday, October 21, 2019.

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 section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–1130'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: September 20, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–20875 Filed 9–25–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Vacancy Posting for a Member of the Administrative Review Board

Summary of Duties: The incumbents exercise completely independent judgment in considering and deciding appeals and other matters which come before the Boards required by law and any applicable regulations. They sign decisions with which they agree or take such action as appropriate, including that of writing concurring and/or dissenting opinions. Also included there in are the following responsibilities, exercised jointly by the Chair and the Board Members: Establishing general policies for the Board's operations; participation at Board case conferences and at oral argument; and other responsibilities necessary for the orderly and efficient disposition of all matters properly before the Board.

Appointment Type: Excepted. The term of appointment is for four years or less and may be extended.

Qualifications: The applicant should be well versed in law and have the ability to interpret statutes and regulations and come to a determination with other members of the Board or as appropriate, write separately in appellate cases involving a broad range of legal, medical, economic and technical issues which affect the entire maritime and coal mining industries. Applicants must possess a J.D. and are required to be active members of the Bar in any U.S. State or U.S. Territory Court under the U.S. Constitution.

To Be Considered: Applicants must provide a detailed resume containing a demonstrated ability to perform as a Member of the Board.

Closing Date: Resumes must be submitted (postmarked, if sending by mail; submitted electronically; or received, if hand-delivered) by 11:59 p.m. EDT on October 23, 2019. Resumes must be submitted to: *sylvia.john@dol.gov* or mail to: U.S. Department of Labor, 200 Constitution Avenue NW, ATTN: Office of Executive Resources, Room N2453, Washington, DC 20210, phone: 774–365–6851. This is not a toll-free number.

Dated: September 23, 2019.

Bryan Slater,

Assistant Secretary for Administration & Management.

[FR Doc. 2019–20887 Filed 9–25–19; 8:45 am]

BILLING CODE 4510–04–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: 19–054]

National Environmental Policy Act; Mars 2020 Mission

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to prepare a Supplemental Environmental Impact Statement (SEIS) for implementation of the Mars 2020 mission.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended, the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA, and NASA's procedures for implementing NEPA, NASA intends to prepare a supplement to the Final Environmental Impact Statement for the Mars 2020 Mission (Supplemental EIS). The Supplemental EIS will provide updated information related to the potential environmental impacts associated with the proposed Mars 2020 mission. The updated information is pertinent to the consequence and risk analyses of potential accidents which could occur during the launch phases of the mission. Although the probability of such accidents occurring is highly unlikely, it is possible that under certain

conditions an accident could result in a release of plutonium dioxide from the Multi-Mission Radioisotope Thermoelectric Generator (MMRTG). The MMRTG is a critical component of the Mars 2020 rover; it would enable the Mars 2020 rover mission to undertake a much broader scope of scientific discovery by providing a continuous supply of electrical power and temperature control to the Mars 2020 rover while on the surface of Mars. The Mars 2020 spacecraft would launch onboard an Atlas V launch vehicle from the Cape Canaveral Air Force Station (CCAFS), Brevard County, Florida, during the summer of 2020. Additional information about the mission may be found on the internet at: *https://mars.nasa.gov/mars2020/.*

DATES: A Notice of Availability (NOA) will be published in the **Federal Register** once NASA has completed drafting the SEIS. The NOA will provide a 45-day public comment period.

FOR FURTHER INFORMATION CONTACT: Mr. George Tahu by electronic mail at *mars2020-nepa@lists.nasa.gov* or by telephone at 202–358–0016.

SUPPLEMENTARY INFORMATION: NASA's proposed Mars 2020 mission would use the proven design and technology developed for the Mars Science Laboratory mission and rover (Curiosity) that launched from CCAFS in November 2011 and arrived at Mars in August 2012. NASA would select a high priority, scientifically important landing site based upon data from past and current missions. The rover would be equipped with new scientific instrumentation that would: (a) Characterize the geological processes and history of an astrobiologically relevant ancient environment on Mars; (b) within the selected geological environment, assess the past habitability of the landing region and search for evidence of past life; (c) assemble a scientifically selected, well-documented, cache of samples for potential future return to the Earth; (d) further the preparation for future human exploration of Mars; and (e) demonstrate improved technical capabilities for landing and operating on the surface of Mars to benefit future Mars missions.

On September 11, 2013, NASA issued a Notice of Intent to prepare an Environmental Impact Statement (EIS) for the Mars 2020 mission. It was anticipated that the electrical, thermal, and operational requirements of the rover would require a radioisotope power source (MMRTG) using plutonium-238. This single MMRTG would provide adequate power to operate the rover, similar to the Mars Curiosity rover. Some of the waste heat from the MMRTG would be used for temperature control of the rover electronics, science instruments, and other sensitive components. Alternatives to the Proposed Action addressed in that EIS included: (1) The use of alternative sources of on-board power and heat (including solar energy); and (2) the No Action Alternative. The Mars 2020 EIS also addressed the purpose and need for the proposed Mars 2020 mission and the environmental impacts associated with its implementation. The environmental impacts of the mission associated with the normal launch of the mission were addressed, as were the potential consequences of accident situations. NASA issued the Mars 2020 Final EIS in November 2014, and on January 27, 2015, NASA issued its Record of Decision (ROD). The ROD adopted Alternative 1 as the preferred alternative. Alternative 1 required NASA to complete preparations for and implement the proposed Mars 2020 mission during July—August 2020, or during the next available launch opportunity in August through September 2022, and to operate the mission using a MMRTG that would continually provide heat and electrical power to the rover's battery. Since 2015, NASA has significantly advanced preparations for the Mars 2020 mission and selected the Atlas V as the launch vehicle. The Mars 2020 Final EIS discussed Incomplete and Unavailable Information which would be addressed in the future through more detailed risk analyses conducted as part of NASA's and the Department of Energy's (DOE) ongoing radiological safety review programs. These analyses were completed in 2019 and accounted for the chosen launch vehicle (that was selected on August 25, 2016, after the Mars 2020 Record of Decision on January 27, 2015), up to date safety test information, and updated analytical models.

NASA policy for implementation of NEPA is found in NASA Procedural Requirements 8580.1A (NPR). The NPR requires preparation of a supplemental NEPA document when a substantial change in information relevant to environmental concerns that bear on the impacts of the proposed action is discovered. Since NASA issued the 2014 Final EIS and 2015 ROD, updated results from DOE conducted risk and consequence modeling have become available for NASA's consideration. NASA has determined that the purposes of NEPA will be furthered by preparation and issuance of an SEIS.

Nanette Smith,

NASA Federal Register Liaison Officer.

[FR Doc. 2019–20569 Filed 9–25–19; 8:45 am]

BILLING CODE 7510–13–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2018–119 and CP2019–197]

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 30, 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:

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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).:* CP2018–119; *Filing Title:* USPS Notice of Amendment to Priority Mail Contract 401, Filed Under Seal; *Filing Acceptance Date:* September 20, 2019; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* September 30, 2019.

2. *Docket No(s).:* CP2019–197; *Filing Title:* USPS Notice of Amendment to Priority Mail Contract 542, Filed Under Seal; *Filing Acceptance Date:* September 20, 2019; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* September 30, 2019.

This Notice will be published in the **Federal Register**.

Darcie S. Tokioka,

Acting Secretary.

[FR Doc. 2019–20934 Filed 9–25–19; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL REGULATORY COMMISSION

[Docket No. MC2019–203; Order No. 5242]

Mail Classification Schedule

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is acknowledging a recent Postal Service filing of its intention to clarify that it may alter the age requirements for Adult Signature Services pursuant to a Negotiated Service Agreement. This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 30, 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:

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I. Introduction
II. Summary of Changes
III. Notice of Commission Action
IV. Ordering Paragraphs

I. Introduction

On September 20, 2019, the Postal Service filed a notice of classification change pursuant to Commission rule 39 CFR 3020.90.[1] The Postal Service seeks to clarify that it may alter the age requirements for Adult Signature Services pursuant to a Negotiated Service Agreement (NSA). Notice at 1. The changes are intended to take effect on October 7, 2019. *Id.*

II. Summary of Changes

The Postal Service proposes an addition to the Mail Classification Schedule explicitly stating that it may change the age requirements for Adult Signature Services pursuant to a NSA. *Id.* The current Adult Signature Service requires the signature of a person 21 or older at the recipient's address for Adult Signature Required delivery and the signature of the addressee 21 years of age or older for Adult Signature Restricted delivery. *Id.* Attachment 1.

The Postal Service maintains that the proposed change satisfies the requirements of 39 CFR 3020.90 because it does not alter the age restrictions of Adult Signature Services, but simply facilitates verifying ages other than 21 pursuant to an NSA. Notice at 1. The change will not affect the existing prices or cost coverage for the Adult Signature Services product. *Id.*

[1] USPS Notice of Minor Correction to Competitive Ancillary Services, September 20, 2019 (Notice).

III. Notice of Commission Action

Pursuant to 39 CFR 3020.91, the Commission has posted the Notice on its website and invites comments on whether the Postal Service's filings are consistent with 39 CFR 3020, subpart E. Comments are due no later than September 30, 2019. These filings can be accessed via the Commission's website (*http://www.prc.gov*).

The Commission appoints Erica Barker to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. MC2019–203 to consider matters raised by the Notice.
2. Comments by interested persons are due by September 30, 2019.
3. Pursuant to 39 U.S.C. 505, Erica Barker is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
4. The Commission directs the Secretary of the Commission to arrange for prompt publication of this notice in the **Federal Register**.

By the Commission.

Darcie S. Tokioka,

Acting Secretary.

[FR Doc. 2019–20917 Filed 9–25–19; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87041; File No. SR–MIAX–2019–40]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

September 20, 2019.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 10, 2019, Miami International Securities Exchange LLC (''MIAX Options'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the ''Fee Schedule'').

The Exchange previously filed the proposal on August 30, 2019 (SR–MIAX–2019–39). That filing has been withdrawn and replaced with the current filing (SR–MIAX–2019–40).

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to: (i) Increase the Priority Customer Rebate Program (''PCRP'') per contract credit for Complex Orders [3] assessable to Members and Affiliates (defined below) who qualify for the volume thresholds in Tiers 1, 3 and 4 of the PCRP; (ii) adopt new Initiator rebates for QCC Orders (defined below) for any Public Customer [4] that is not a Priority Customer,[5] MIAX Market Maker,[6] non-MIAX Market Maker, non-Member Broker-Dealer, and Firm (collectively, for the purposes of this filing, ''Professionals'') who is the Initiator of a QCC transaction and when the contra is an Origin other than Priority Customer; and (iii) adopt new Initiator rebates for cQCC Orders (defined below) for any Public Customer that is not a Priority Customer, MIAX Market Maker, non-MIAX Market Maker, non-Member Broker-Dealer, and Firm who is the Initiator of a cQCC transaction and when the contra is an Origin other than Priority Customer.

Background

Under the PCRP, the Priority Customer rebate payment is calculated from the first executed contract at the applicable threshold per contract credit with rebate payments made at the highest achieved volume tier for each contract traded in that month. The percentage thresholds are calculated based on the percentage of national customer volume in multiply-listed options classes listed on MIAX entered and executed over the course of the month (excluding QCC and cQCC Orders, Priority Customer-to-Priority Customer Orders, C2C and cC2C Orders, PRIME and cPRIME AOC Responses, PRIME and cPRIME Contra-side Orders, and PRIME and cPRIME Orders for which both the Agency and Contra-side Order are Priority Customers). Volume for transactions in both simple and complex orders are aggregated to determine the appropriate volume tier threshold applicable to each transaction. Volume is recorded for and credits are delivered to the Member that submits the order to MIAX. MIAX aggregates the contracts resulting from Priority Customer orders transmitted and executed electronically on MIAX from Members and Affiliates [7] for purposes of the thresholds described in the PCRP table. Currently, Members and Affiliates that qualify for the PCRP and execute Priority Customer non-paired complex volume receive the following rebates for Complex Orders: (i) $0.00 per contract in Tier 1; (ii) $0.21 per contract in Tier 2; (iii) $0.24 per contract in Tier 3; and (iv) $0.25 per contract in Tier 4.[8]

Next, a QCC Order is comprised of an order to buy or sell at least 1,000 contracts that is identified as being part of a qualified contingent trade, coupled with a contra side order to buy or sell an equal number of contracts.[9] Currently, the Exchange provides an Initiator transaction rebate for all types of market participants of $0.14 per contract for a QCC Order. The rebate is paid to the Member [10] that enters the QCC Order into the System,[11] but is only paid on the initiating side of the QCC transaction. No rebates are paid for QCC transactions in which both the

[3] A ''complex order'' is any order involving the concurrent purchase and/or sale of two or more different options in the same underlying security (the ''legs'' or ''components'' of the complex order), for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purposes of executing a particular investment strategy. Mini-options may only be part of a complex order that includes other mini-options. Only those complex orders in the classes designated by the Exchange and communicated to Members via Regulatory Circular with no more than the applicable number of legs, as determined by the Exchange on a class-by-class basis and communicated to Members via Regulatory Circular, are eligible for processing. A complex order can also be a ''stock-option order'' as described further, and subject to the limitations set forth, in Interpretations and Policies .01 of Exchange Rule 518. *See* Exchange Rule 518.

[4] The term ''Public Customer'' means a person that is not a broker or dealer in securities. *See* Exchange Rule 100.

[5] The term ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts(s). *See* Exchange Rule 100.

[6] The term ''Market Makers'' refers to ''Lead Market Makers'', ''Primary Lead Market Makers'' and ''Registered Market Makers'' collectively. *See* Exchange Rule 100.

[7] For purposes of the MIAX Options Fee Schedule, the term ''Affiliate'' means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, (''Affiliate''), or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An ''Appointed Market Maker'' is a MIAX Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an ''Appointed EEM'' is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX Market Maker) that has been appointed by a MIAX Market Maker, pursuant to the following process. A MIAX Market Maker appoints an EEM and an EEM appoints a MIAX Market Maker, for the purposes of the Fee Schedule, by each completing and sending an executed Volume Aggregation Request Form by email to *membership@miaxoptions.com* no later than 2 business days prior to the first business day of the month in which the designation is to become effective. Transmittal of a validly completed and executed form to the Exchange along with the Exchange's acknowledgement of the effective designation to each of the Market Maker and EEM will be viewed as acceptance of the appointment. The Exchange will only recognize one designation per Member. A Member may make a designation not more than once every 12 months (from the date of its most recent designation), which designation shall remain in effect unless or until the Exchange receives written notice submitted 2 business days prior to the first business day of the month from either Member indicating that the appointment has been terminated. Designations will become operative on the first business day of the effective month and may not be terminated prior to the end of the month. Execution data and reports will be provided to both parties. *See* Fee Schedule, note 1.

[8] *See* Fee Schedule, Section (1)(a)iii.

[9] A Qualified Contingent Cross Order is comprised of an originating order to buy or sell at least 1,000 contracts, or 10,000 mini-option contracts, that is identified as being part of a qualified contingent trade, as that term is defined in Interpretation and Policy .01 to Rule 516, coupled with a contra-side order or orders totaling an equal number of contracts. *See* Exchange Rule 516(j); *see also* Fee Schedule, Section (1)(a)vii.

[10] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[11] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

Initiator and contra-side orders are from Priority Customers. The Exchange notes that with regard to order entry, the first order submitted into the System is marked as the initiating side and the second order is marked as the contra side.

A cQCC Order is comprised of an initiating complex order to buy or sell where each component is at least 1,000 contracts that is identified as being part of a qualified contingent trade, coupled with a contra-side complex order or orders to sell or buy an equal number of contracts.[12] Currently, the Exchange provides an Initiator transaction rebate for all types of market participants of $0.14 per contract for a cQCC Order. All fees and rebates are per contract per leg. Rebates are delivered to the Member that enters the order into the System, but are only paid on the initiating side of the cQCC transaction. However, no rebates are paid for cQCC transactions for which both the Initiator and contra-side orders are Priority Customers.

The Exchange notes that QCC and cQCC Orders are excluded from: (i) The volume threshold calculations for the Market Maker Sliding Scale; (ii) the rebates and volume calculations as part of the PCRP; (iii) participation in the Professional Rebate Program; and (iv) the Marketing Fee that is assessed to Market Makers in their assigned classes in simple or complex order executions when the contra-party to the execution is a Priority Customer.

Proposed Changes

First, the Exchange proposes to amend Section (1)(a)iii of the Fee Schedule to increase the PCRP per contract credit for Complex Orders assessable to Members and Affiliates who qualify for the volume thresholds in Tiers 1, 3 and 4 of the PCRP. The Exchange proposes to increase the PCRP per contract credit for Complex Orders assessable to Members and Affiliates who qualify for the volume thresholds in Tier 1 of the PCRP from the current $0.00 per contract to the proposed $0.20 per contract. The Exchange also proposes to increase the PCRP per contract credit for Complex Orders assessable to Members and Affiliates who qualify for the volume thresholds in Tiers 3 and 4 of the PCRP depending on whether (i) the executing buyer and seller are the same Member or are Affiliates or, (ii) the executing buyer and seller are not the same Member or are not Affiliates. The Exchange proposes to increase PCRP per contract credit for Complex Orders assessable to Members and Affiliates who qualify for the volume threshold in Tier 3 of the PCRP from the current $0.24 per contract to: (i) The proposed $0.26 per contract when the executing buyer and seller are the same Member or are Affiliates, or (ii) the proposed $0.27 per contract when the executing buyer and seller are not the same Member or are not Affiliates. Similarly, the Exchange proposes to increase PCRP per contract credit for Complex Orders assessable to Members and Affiliates who qualify for the volume threshold in Tier 4 of the PCRP from the current $0.25 per contract to: (i) The proposed $0.27 per contract when the executing buyer and seller are the same Member or are Affiliates, or (ii) the proposed $0.28 per contract when the executing buyer and seller are not the same Member or are not Affiliates.

In order to differentiate between the proposed increased Complex Order credits for Members and Affiliates who qualify for Tiers 3 and 4 in the PCRP, which are dependent upon whether the executing buyer and seller are the same Member or Affiliates, the Exchange proposes to insert two new symbols after the symbol ''**''[13] immediately following the PCRP table of rebates in Section (1)(a)iii of the Fee Schedule. In particular, the Exchange proposes to adopt new symbol ''◈,'' and the following explanatory sentence: ''This rebate is for executed Priority Customer non-paired Complex Orders when the executing buyer and seller are the same Member or Affiliates.'' The Exchange also proposes to adopt new symbol ''■,'' and the following explanatory sentence: ''This rebate is for executed Priority Customer non-paired Complex Orders when the executing buyer and seller are not the same Member or Affiliates.'' Accordingly, the Exchange proposes to insert each symbol following the proposed new increased credits for Members and Affiliates who qualify for Tiers 3 and 4 for Complex Orders in the PCRP, corresponding to the new proposed rebate in each Tier.

The Exchange believes the proposed changes to increase rebates for certain Tiers of the PCRP for Complex Orders will encourage market participants to submit more Priority Customer Complex Orders and therefore increase Priority Customer order flow, resulting in increased liquidity which benefits all Exchange participants by providing more trading opportunities and tighter spreads. The Exchange believes it is reasonable and appropriate to adopt a higher PCRP per contract credit for Complex Orders when the executing buyer and seller are not the same Member or Affiliates (versus when the executing buyer and seller are the same Member or Affiliates) since the Exchange already offers certain transaction fee discounts to Members and their Affiliates that aggregate their order flow on these types of transactions through various tier-based pricing structures, such as in Section (1)(a)i of the Fee Schedule for Market Maker transaction fees[14] and in Section (1)(a)ii of the Fee Schedule for Other Market Participants transaction fees.[15] Accordingly, the Exchange believes it is reasonable, equitable, and not unfairly discriminatory to offer a higher PCRP per contract credit for Complex Orders when the executing buyer and seller are not the same Members or Affiliates, as other fee discount programs currently exist for the same Members and Affiliates. The Exchange also notes that at least one other competing exchange similarly provides for different pricing dependent upon whether the executing buyer and seller are the same market participant or have some form of common ownership.[16]

Next, the Exchange proposes to amend Section (1)(a)vii of the Fee

[12] A Complex Qualified Contingent Cross or ''cQCC'' Order is comprised of an originating complex order to buy or sell where each component is at least 1,000 contracts that is identified as being part of a qualified contingent trade, as defined in Rule 516, Interpretation and Policy .01, coupled with a contra-side complex order or orders totaling an equal number of contracts. *See* Exchange Rule 518(b)(6); *see also* Fee Schedule, Section (1)(a)viii.

[13] *See* Fee Schedule, Section (1)(a)iii.

[14] *See* Fee Schedule, Section (1)(a)i.

[15] *See* Fee Schedule, Section (1)(a)ii.

[16] *See* Nasdaq Options Pricing Schedule, Options 7, Section 2(1), note 2 (Participants that add 1.30% of Customer, Professional, Firm, Broker-Dealer or Non-NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of total industry customer equity and ETF option ADV contracts per day in a month will be subject to the following pricing applicable to executions: A $0.48 per contract Penny Pilot Options Fee for Removing Liquidity when the Participant is (i) both the buyer and the seller or (ii) the Participant removes liquidity from another Participant under Common Ownership. Participants that add 1.50% of Customer, Professional, Firm, Broker-Dealer or Non-NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of total industry customer equity and ETF option ADV contracts per day in a month and meet or exceed the cap for The Nasdaq Stock Market Opening Cross during the month will be subject to the following pricing applicable to executions less than 10,000 contracts: A $0.32 per contract Penny Pilot Options Fee for Removing Liquidity when the Participant is (i) both the buyer and seller or (ii) the Participant removes liquidity from another Participant under Common Ownership. Participants that add 1.75% of Customer, Professional, Firm, Broker-Dealer or Non-NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of total industry customer equity and ETF option ADV contracts per day in a month will be subject to the following pricing applicable to executions less than 10,000 contracts: A $0.32 per contract Penny Pilot Options Fee for Removing Liquidity when the Participant is (i) both the buyer and seller or (ii) the Participant removes liquidity from another Participant under Common Ownership.).

Schedule to adopt new Initiator rebates for QCC Orders for any Professional who is the Initiator of a QCC Order and when the contra is an Origin other than Priority Customer. In particular, the Exchange proposes to adopt a new Initiator rebate of $0.27 per contract for a Public Customer that is not a Priority Customer who is the Initiator of a QCC Order and when the contra is an Origin other than Priority Customer. The Exchange also proposes to adopt a new Initiator rebate of $0.22 per contract for a MIAX Market Maker, Non-MIAX Market Maker, non-Member Broker-Dealer and Firm that is the Initiator of a QCC Order and when the contra is an Origin other than Priority Customer. The Exchange notes that the current Initiator rebate of $0.14 per contract will continue to apply when a Priority Customer is the Initiator of a QCC transaction. The Exchange notes that no rebates are paid for QCC transactions in which both the Initiator and contra-side orders are from Priority Customers. Pursuant to this proposal, the Exchange would add a new Initiator rebate column on the right side of the QCC transaction fees and rebates table in Section (1)(a)vii of the Fee Schedule. With the proposed changes, the QCC transaction fees and rebates in Section (1)(a)vii of the Fee Schedule would be as follows:

Types of market participants	QCC Order			
	Per contract fee for initiator	Per contract fee for contra-side	Per contract rebate for initiator	Per contract rebate for initiator when contra is origin other than priority customer
Priority Customer	$0.00	$0.00	$0.14	$0.14
Public Customer that is Not a Priority Customer	0.15	0.17	0.14	0.27
MIAX Market Maker	0.15	0.17	0.14	0.22
Non-MIAX Market Maker	0.15	0.17	0.14	0.22
Non-Member Broker-Dealer	0.15	0.17	0.14	0.22
Firm	0.15	0.17	0.14	0.22

Rebates will be delivered to the Member firm that enters the order into the MIAX system, but will only be paid on the initiating side of the QCC transaction. However, no rebates will be paid for QCC transactions for which both the initiator and contra-side orders are Priority Customers. A QCC transaction is comprised of an 'initiating order' to buy (sell) at least 1000 contracts or 10,000 mini-option contracts, coupled with a contra-side order to sell (buy) an equal number of contracts. QCC orders comprised of mini-contracts will be assessed QCC fees and afforded rebates equal to 10% of the fees and rebates applicable to QCC Orders comprised of standard option contracts.

Next, the Exchange proposes to amend Section (1)(a)viii of the Fee Schedule to adopt new Initiator rebates for cQCC Orders for any Professional who is the Initiator of a cQCC Order and when the contra is an Origin other than Priority Customer. In particular, the Exchange proposes to adopt a new Initiator rebate of $0.27 per contract for a Public Customer that is not a Priority Customer who is the Initiator of a cQCC Order and when the contra is an Origin other than Priority Customer. The Exchange also proposes to adopt a new Initiator rebate of $0.22 per contract for a MIAX Market Maker, non-MIAX Market Maker, non-Member Broker-Dealer and Firm that is the Initiator of a cQCC Order and when the contra is an Origin other than Priority Customer. The Exchange notes that the current Initiator rebate of $0.14 per contract will continue to apply when a Priority Customer is the Initiator of a cQCC transaction. The Exchange notes that no rebates are paid for cQCC transactions in which both the Initiator and contra-side orders are from Priority Customers. Pursuant to this proposal, the Exchange would add a new Initiator rebate column on the right side of the cQCC transaction fees and rebates table in Section (1)(a)viii of the Fee Schedule. With the proposed changes, the cQCC transaction fees and rebates in Section (1)(a)viii of the Fee Schedule would be as follows:

Types of market participants	cQCC Order			
	Per contract fee for initiator	Per contract fee for contra-side	Per contract rebate for initiator	Per contract rebate for initiator when contra is origin other than priority customer
Priority Customer	$0.00	$0.00	$0.14	$0.14
Public Customer that is Not a Priority Customer	0.15	0.17	0.14	0.27
MIAX Market Maker	0.15	0.17	0.14	0.22
Non-MIAX Market Maker	0.15	0.17	0.14	0.22
Non-Member Broker-Dealer	0.15	0.17	0.14	0.22
Firm	0.15	0.17	0.14	0.22

All fees and rebates are per contract per leg. Rebates will be delivered to the Member firm that enters the order into the MIAX system, but will only be paid on the initiating side of the cQCC transaction. However, no rebates will be paid for cQCC transactions for which both the initiator and contra-side orders are Priority Customers. A cQCC transaction is comprised of an 'initiating complex order' to buy (sell) where each component is at least 1,000 contracts that is identified as being part of a qualified contingent trade, coupled with a contra-side complex order or orders to sell (buy) an equal number of contracts.

The purpose of adopting new Initiator rebates for QCC and cQCC Orders for any Professional who is the Initiator of a QCC or cQCC Order and when the contra is an Origin other than Priority Customer is for business and competitive reasons. The Exchange has different net transaction revenues based on different combinations of Origins and Contra. For example, when Priority Customer is both the Initiator and Contra-side, no rebates are paid (for both QCC and cQCC transactions). This is in the Exchange's current Fee Schedule and in competitors' fee schedules as well. The Exchange notes that Priority Customers are generally assessed a $0.00 transaction fee. Accordingly, the Exchange has made a business decision to adopt the proposed new Initiator rebates for QCC and cQCC Orders for Professionals when they are the Initiator of a QCC or cQCC Order and when they trade against an Origin other than Priority Customer, in order to increase competition and potentially attract different combinations of additional QCC and cQCC order flow to the Exchange. The Exchange believes that it is appropriate to adopt these new Initiator rebates in order to attract additional QCC and cQCC order flow and grow the Exchange's market share in this segment, through offering newly structured and higher rebates. The Exchange also believes it is appropriate to adopt higher Initiator rebates for QCC and cQCC Orders for Professionals when they trade against Origins other than Priority Customers, since Priority Customers are already incentivized by a reduced fee for submitting QCC and cQCC Orders. The Exchange also notes that other competing exchanges similarly provide rebates on QCC and cQCC initiating orders.[17]

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and self-regulatory organization (''SRO'') revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[18] There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has exceeded approximately 15% of the market share of executed volume of multiply-listed equity and exchange-traded fund (''ETF'') options as of August 26, 2019, for the month of August 2019.[19] Therefore, no exchange possesses significant pricing power in the execution of multiple-listed equity and ETF options order flow. More specifically, for all of July 2019, the Exchange had a total market share of 3.61% of all equity options and ETF volume.[20] The Exchange believes that the ever-shifting market shares among the exchanges from month to month demonstrates that market participants can shift order flow (as further described below), or discontinue or reduce use of certain categories of products, in response to transaction and non-transaction fee changes. For example, on March 1, 2019, the Exchange filed with the Commission an immediately effective filing to decrease certain credits assessable to Members pursuant to the PCRP.[21] The Exchange experienced a decrease in total market share between the months of February and March of 2019. Accordingly, the Exchange believes that the March 1, 2019 fee change may have contributed to the decrease in the Exchange's market share and, as such, the Exchange believes competitive forces constrain options exchange transaction and non-transaction fees.

The Exchange cannot predict with certainty whether any Priority Customers would avail themselves of the proposed fee changes to the PCRP, but the Exchange believes that approximately three Members have the potential to achieve the applicable Tier volume thresholds to receive the proposed increased Complex Order credits for Members in Tiers 3 or 4 of the PCRP. Similarly, the Exchange cannot predict with certainty whether any Professional Customer that is not a Priority Customer, MIAX Market Maker, non-MIAX Market Maker, non-Member Broker-Dealer or Firm will initiate a QCC or cQCC transaction to receive the proposed new Initiator rebates for those types of market participants of QCC or cQCC transactions when the contra is an Origin other than Priority Customer. The Exchange does not currently have any Members that are actively sending QCC or cQCC Orders to the Exchange on a regular basis. Therefore, no current Members will be impacted by this proposed change. However, this proposal is intended to encourage Members to start actively sending QCC or cQCC Orders to the Exchange on a regular basis.

The proposed rule change is immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[22] in general, and furthers the objectives of Section 6(b)(4) of the Act[23] in particular, in that it is an equitable allocation of reasonable fees and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act 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 and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes its proposal to increase the PCRP per contract credit for Complex Orders assessable to Members and Affiliates who qualify for the volume thresholds in Tiers 1, 3 and 4 of PCRP and adopt new Initiator rebates for QCC and cQCC Orders provides for the equitable allocation of reasonable dues and fees and is not unfairly discriminatory for the following reasons. First, the Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in

[17] *See* BOX Fee Schedule, Section I(D)(1) (a $0.14 per contract rebate will be applied to the Agency Order where at least one party to the QCC transaction is a Non-Public Customer); *see also* Cboe Fee Schedule, ''QCC Rate Table,'' Page 5 (a $0.10 per contract credit will be delivered to the TPH Firm that enters the order into Cboe Command but will only be paid on the initiating side of the QCC transaction); *see also* NYSE American Options Fee Schedule, Section I.F (a $0.07 credit is applied to Floor Brokers executing 300,000 or fewer contracts in a month and a $0.10 credit is applied to Floor Brokers executing more than 300,000 contracts in a month); *see also* Nasdaq ISE Pricing Schedule, Options 7, Section 6, Other Options Fees and Rebate, A. QCC and Solicitation Rebate (rebates range from $0.00 to $0.11 per contract).

[18] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[19] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available at: *https://www.theocc.com/market-data/volume/default.jsp.*

[20] *See id.*

[21] *See* Securities Exchange Act Release No. 85301 (March 13, 2019), 84 FR 10166 (March 19, 2019) (SR–MIAX–2019–09).

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78f(b)(4) and (5).

determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [24] There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has exceeded approximately 15% of the market share of executed volume of multiply-listed equity and ETF options as of August 26, 2019, for the month of August 2019.[25] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, for all of July 2019, the Exchange had a total market share of 3.61% for all equity options volume.[26]

The Exchange also believes that the ever-shifting market shares among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to transaction and/or non-transaction fee changes. For example, on March 1, 2019, the Exchange filed with the Commission an immediately effective filing to decrease certain credits assessable to Members pursuant to the PCRP.[27] The Exchange experienced a decrease in total market share between the months of February and March of 2019. Accordingly, the Exchange believes that the March 1, 2019 fee change may have contributed to the decrease in the Exchange's market share and, as such, the Exchange believes competitive forces constrain options exchange transaction and non-transaction fees and market participants can shift order flow based on fee changes instituted by the exchanges.

Second, the Exchange believes its proposal to increase the PCRP per contract credit for Complex Orders assessable to Members and Affiliates who qualify for the volume thresholds in Tiers 1, 3 and 4 of PCRP and adopt new Initiator rebates for QCC and cQCC Orders is an equitable allocation of reasonable dues and fees pursuant to Section 6(b)(4) of the Act [28] because the proposed changes are designed to incentivize overall Priority Customer and QCC and cQCC order flow, respectively. The Exchange believes that with the proposed changes, providers of Priority Customer or QCC and cQCC order flow will be incentivized to send that order flow to the Exchange in order to obtain the highest volume threshold or Initiator rebate and receive credits in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants. The Exchange believes that increased Priority Customer or QCC and cQCC order flow will attract liquidity providers, which in turn should make the MIAX marketplace an attractive venue where Market Makers may submit narrow quotations with greater size, deepening and enhancing the quality of the MIAX marketplace. This should provide more trading opportunities and tighter spreads for other market participants and result in a corresponding increase in order flow from such other market participants.

The Exchange believes the proposal to adopt a higher PCRP per contract credit for Complex Orders when the executing buyer and seller are not the same Member or Affiliates (versus when the executing buyer and seller are the same Member or Affiliates) provides for the equitable allocation of reasonable dues and fees and is not unfairly discriminatory since the Exchange already offers certain transaction fee discounts to Members and their Affiliates that aggregate their order flow on these types of transactions through various tier-based pricing structures, such as in Section (1)(a)i of the Fee Schedule for Market Maker transaction fees [29] and in Section (1)(a)ii of the Fee Schedule for Other Market Participants transaction fees.[30] Accordingly, the Exchange believes it is reasonable, equitable, and not unfairly discriminatory to offer a higher PCRP per contract credit for Complex Orders when the executing buyer and seller are not the same Members or Affiliates, as other discount programs currently exist for the same Member and Affiliates.

The Exchange believes the proposal to adopt new Initiator rebates for QCC and cQCC Orders for any Professional who is the Initiator of a QCC or cQCC Order and when the contra is an Origin other than Priority Customer provides for the equitable allocation of reasonable dues and fees and is not unfairly discriminatory since the Exchange has different net transaction revenues based on different combinations of Origins and Contra. For example, when Priority Customer is both the Initiator and Contra-side, no rebates are paid (for both QCC and cQCC transactions). This is in the Exchange's current Fee Schedule and in competitors' fee schedules as well. The Exchange notes that Priority Customers are generally assessed a $0.00 transaction fee. Accordingly, the Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to adopt the proposed new Initiator rebates for QCC and cQCC Orders for Professionals when they are the Initiator of a QCC or cQCC Order and when they trade against an Origin other than Priority Customer, in order to increase competition and potentially attract different combinations of additional QCC and cQCC order flow to the Exchange. The Exchange also believes it is reasonable, equitable, and not unfairly discriminatory to adopt higher Initiator rebates for QCC and cQCC Orders for Professionals when they trade against Origins other than Priority Customers, since Priority Customers are already incentivized by a reduced fee for submitting QCC and cQCC Orders.

The Exchange believes that the proposed rule changes would be an equitable allocation of reasonable dues and fees and would not permit unfair discrimination between market participants. The Exchange cannot predict with certainty whether any Priority Customers would avail themselves of the proposed fee changes to the PCRP, but the Exchange believes that approximately three Members have the potential to achieve the applicable Tier volume thresholds to receive the proposed increased Complex Order credits for Members in Tiers 3 or 4 of the PCRP. Similarly, the Exchange cannot predict with certainty whether any Professional Customer that is not a Priority Customer, MIAX Market Maker, non-MIAX Market Maker, non-Member Broker-Dealer or Firm will initiate a QCC or cQCC transaction to receive the proposed new Initiator rebates for those types of market participants of QCC or cQCC transaction when the contra is an Origin other than Priority Customer. The Exchange does not currently have any Members that are actively sending QCC or cQCC Orders to the Exchange on a regular basis. Therefore, no current Members will be impacted by this proposed change. However, this proposal is intended to encourage Members to start actively sending QCC or cQCC Orders to the Exchange on a regular basis.

The Exchange also believes its proposal is consistent with Section 6(b)(5) of the Act [31] and is designed to

[24] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[25] *See supra* note 19.

[26] *See id.*

[27] *See supra* note 21.

[28] 15 U.S.C. 78f(b)(4).

[29] *See supra* note 14.

[30] *See supra* note 15.

[31] 15 U.S.C. 78f(b)(1) and (b)(5).

prevent fraudulent and manipulative acts and practices, promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in regulating, clearing, setting, processing information with respect to, and facilitating transaction in securities, removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest; and is not designed to permit unfair discrimination. This is because the Exchange believes the proposed changes will incentivize Priority Customer or QCC and cQCC order flow and an increase in such order flow will bring greater volume and liquidity, which benefits all market participants by providing more trading opportunities and tighter spreads. To the extent Priority Customer, QCC and cQCC order flow is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange including sending more orders and providing narrower and larger-sized quotations in the effort to trade with such order flow.

Further, based on the current Tier volume thresholds achieved by the Exchange's Members and the potential changes going forward as a result of the proposed fee change to the PCRP, the Exchange believes that the proposed increase to certain credit amounts for Complex Orders in the PCRP may result in many Members receiving higher credit amounts per contract.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[32] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders.

Intra-Market Competition

The Exchange does not believe that other market participants at the Exchange would be placed at a relative disadvantage by the proposed changes to increase the PCRP per contract credit for Complex Orders assessable to Members and Affiliates who qualify for the volume thresholds in Tiers 1, 3 and 4 of PCRP, or by the proposed adoption of the new Initiator rebates for QCC and cQCC Orders. The proposed changes are designed to attract additional order flow to the Exchange. Accordingly, the Exchange believes that increasing the PCRP per contract credit for Complex Orders assessable to Members and Affiliates who qualify for the volume thresholds in Tiers 1, 3 and 4 of PCRP and adopting new Initiator rebates for QCC and cQCC Orders will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because it will continue to encourage Priority Customer or QCC and cQCC Order flow, which will bring greater volume and liquidity, thereby benefiting all market participants by providing more trading opportunities and tighter spreads.

Further, based on the current Tier volume thresholds achieved by the Exchange's Members and the potential changes going forward as a result of the proposed fee change to the PCRP, the Exchange believes that the proposed increase to certain credit amounts for Complex Orders in the PCRP may not result in any Member receiving a lower credit amount per contract, and may result in three Members receiving a higher credit amount per contract.

Inter-Market Competition

The Exchange operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has exceeded approximately 15% of the market share of executed volume of multiply-listed equity and ETF options as of August 26, 2019, for the month of August 2019.[33] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, for all of July 2019, the Exchange had a total market share of 3.61% for all equity options volume.[34] In such an environment, the Exchange must continually adjust its transaction and non-transaction fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule changes reflect this competitive environment because they modify the Exchange's fees in a manner that encourages market participants to provide Priority Customer, QCC and cQCC liquidity and to send order flow to the Exchange. To the extent this is achieved, all the Exchange's market participants should benefit from the improved market quality.

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) of the Act,[35] and Rule 19b–4(f)(2)[36] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

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–MIAX–2019–40 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–MIAX–2019–40. This file number should be included on the subject line if email is used. To help the

[32] 15 U.S.C. 78f(b)(8).

[33] *See supra* note 19.

[34] *See id.*

[35] 15 U.S.C. 78s(b)(3)(A)(ii).

[36] 17 CFR 240.19b–4(f)(2).

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2019–40 and should be submitted on or before October 17, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–20873 Filed 9–25–19; 8:45 am]

BILLING CODE 8011–01–P

[37] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33630; 812–15001]

CIM Real Assets & Credit Fund, et al.

September 23, 2019.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c–3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares and to impose asset-based distribution and/or service fees, early withdrawal charges (''EWCs''), and early repurchase fees.

APPLICANTS: CIM Real Assets & Credit Fund (the ''Initial Fund''), CIM Capital IC Management, LLC (the ''Adviser'').

FILING DATES: The application was filed on February 7, 2019 and amended on July 3, 2019.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 18, 2019, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: 4700 Wilshire Boulevard, Los Angeles, California 90010.

FOR FURTHER INFORMATION CONTACT: Zeena Abdul-Rahman, Senior Counsel, at (202) 551–4099, or Andrea Ottomanelli Magovern, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations:

1. The Initial Fund is a Delaware statutory trust that is registered under the Act as a continuously offered, non-diversified, closed-end management investment company. The Initial Fund's primary investment objective is to generate current income through cash distributions and preserve and protect shareholders' capital across various market cycles, with a secondary objective of capital appreciation.

2. The Adviser, a Delaware limited liability company, is registered as an investment adviser under the Investment Advisers Act of 1940, as amended. The Adviser will serve as investment adviser to the Initial Fund.

3. The applicants seek an order to permit the Initial Fund to issue multiple classes of shares and to impose EWCs, asset-based distribution and/or service fees with respect to certain classes.

4. Applicants request that the order also apply to any continuously-offered registered closed-end management investment company that has been previously organized or that may be organized in the future for which the Adviser, or any entity controlling, controlled by, or under common control with the Adviser, or any successor in interest to any such entity,[1] acts as investment adviser and that operates as an interval fund pursuant to rule 23c–3 under the Act or provides periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Securities Exchange Act of 1934 (''Exchange Act'') (each, a ''Future Fund'' and together with the Initial Fund, the ''Funds'').[2]

5. The Initial Fund anticipates making a continuous public offering of its shares following the effectiveness of its registration statement. Applicants state that additional offerings by any Fund relying on the order may be on a private placement or public offering basis. Shares of the Funds will not be listed on any securities exchange nor quoted on any quotation medium. The Funds do not expect there to be a secondary trading market for their shares.

6. If the requested relief is granted, the Initial Fund anticipates offering Class I shares, Class C shares, Class A shares, and Class L shares, with each class having its own fee and expense structure. The Funds may in the future offer additional classes of shares and/or another sales charge structure. Because of the different distribution fees, service fees and any other class expenses that may be attributable to each class of shares, the net income attributable to, and the dividends payable on, each class of shares may differ from each other.

7. Applicants state that, from time to time, the Fund may create additional

[1] A successor in interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Fund relying on this relief in the future will do so in compliance with the terms and conditions of the application. Applicants represent that each entity presently intending to rely on the requested relief is listed as an applicant.

classes of shares, the terms of which may differ from the initial classes pursuant to and in compliance with rule 18f–3 under the Act.

8. Applicants state that shares of a Fund may be subject to an early repurchase fee (''Early Repurchase Fee'') at a rate of no greater than 2% of the shareholder's repurchase proceeds if the interval between the date of purchase of the shares and the valuation date with respect to the repurchase of those shares is less than one year. Any Early Repurchase Fees will apply to all classes of shares of a Fund, consistent with section 18 of the Act and rule 18f–3 thereunder. To the extent a Fund determines to waive, impose scheduled variations of, or eliminate any Early Repurchase Fee, it will do so in compliance with the requirements of rule 22d–1 under the Act as if the Early Repurchase Fee were a CDSL (defined below) and as if the Fund were an open-end investment company and the Fund's waiver of, scheduled variation in, or elimination of, any such Early Repurchase Fee will apply uniformly to all shareholders of the Fund regardless of class.

9. Applicants state that the Initial Fund has adopted a fundamental policy to repurchase a specified percentage of its shares at net asset value on a quarterly basis. Such repurchase offers will be conducted pursuant to rule 23c–3 under the Act. Any Future Fund will likewise adopt fundamental investment policies in compliance with rule 23c–3 and make periodic repurchase offers to its shareholders or will provide periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Exchange Act.[3] Any repurchase offers made by the Funds will be made to all holders of shares of each such Fund.

10. Applicants represent that any asset-based service and/or distribution fees for each class of shares of the Funds will comply with the provisions of the FINRA Rule 2341(d) (''FINRA Sales Charge Rule'').[4] Applicants also represent that each Fund will disclose in its prospectus the fees, expenses and other characteristics of each class of shares offered for sale by the prospectus, as is required for open-end multiple class funds under Form N–1A. As is required for open-end funds, each Fund will disclose its expenses in shareholder reports, and describe any arrangements that result in breakpoints in or elimination of sales loads in its prospectus.[5] In addition, applicants will comply with applicable enhanced fee disclosure requirements for fund of funds, including registered funds of hedge funds.[6]

11. Each of the Funds will comply with any requirements that the Commission or FINRA may adopt regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements, as if those requirements applied to the Fund. In addition, each Fund will contractually require that any distributor of the Fund's shares comply with such requirements in connection with the distribution of such Fund's shares.

12. Each Fund will allocate all expenses incurred by it among the various classes of shares based on the net assets of that Fund attributable to each class, except that the net asset value and expenses of each class will reflect the expenses associated with the distribution plan of that class (if any), service fees attributable to that class (if any), including transfer agency fees, and any other incremental expenses of that class. Expenses of a Fund allocated to a particular class of shares will be borne on a pro rata basis by each outstanding share of that class. Applicants state that each Fund will comply with the provisions of rule 18f–3 under the Act as if it were an open-end investment company.

13. Applicants state that each Fund may impose an EWC on shares submitted for repurchase that have been held for less than a specified period and may waive the EWC for certain categories of shareholders or transactions to be established from time to time. Applicants state that each Fund will apply the EWC (and any waivers, scheduled variations, or eliminations of the EWC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d–1 under the Act as if the Funds were open-end investment companies.

14. Each Fund operating as an interval fund pursuant to rule 23c–3 under the Act may offer its shareholders an exchange feature under which the shareholders of the Fund may, in connection with such Fund's periodic repurchase offers, exchange their shares of the Fund for shares of the same class of (i) registered open-end investment companies or (ii) other registered closed-end investment companies that comply with rule 23c–3 under the Act and continuously offer their shares at net asset value, that are in the Fund's group of investment companies (collectively, ''Other Funds''). Shares of a Fund operating pursuant to rule 23c–3 that are exchanged for shares of Other Funds will be included as part of the amount of the repurchase offer amount for such Fund as specified in rule 23c–3 under the Act. Any exchange option will comply with rule 11a–3 under the Act, as if the Fund were an open-end investment company subject to rule 11a–3. In complying with rule 11a–3, each Fund will treat an EWC as if it were a contingent deferred sales load (''CDSL'').

Applicants' Legal Analysis

Multiple Classes of Shares

1. Section 18(a)(2) of the Act provides that a closed-end investment company may not issue or sell a senior security that is a stock unless certain requirements are met. Applicants state that the creation of multiple classes of shares of the Funds may violate section 18(a)(2) because the Funds may not meet such requirements with respect to a class of shares that may be a senior security.

2. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of shares of the Funds may be prohibited by section 18(c), as a class may have priority over another class as to payment of dividends because shareholders of different classes would pay different fees and expenses.

3. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of shares of the Funds may violate section

[3] Applicants submit that rule 23c–3 and Regulation M under the Exchange Act permit an interval fund to make repurchase offers to repurchase its shares while engaging in a continuous offering of its shares pursuant to Rule 415 under the Securities Act of 1933, as amended.

[4] Any reference to the FINRA Sales Charge Rule includes any successor or replacement to the FINRA Sales Charge Rule.

[5] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release) (requiring open-end investment companies to disclose fund expenses in shareholder reports); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release) (requiring open-end investment companies to provide prospectus disclosure of certain sales load information).

[6] Fund of Funds Investments, Investment Company Act Rel. Nos. 26198 (Oct. 1, 2003) (proposing release) and 27399 (Jun. 20, 2006) (adopting release). *See* also Rules 12d1–1, *et seq.* of the Act.

18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(a)(2), 18(c) and 18(i) to permit the Funds to issue multiple classes of shares.

5. Applicants submit that the proposed allocation of expenses relating to distribution and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Fund to facilitate the distribution of its securities and provide investors with a broader choice of shareholder services. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f–3 under the Act. Applicants state that each Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

Early Withdrawal Charges

1. Section 23(c) of the Act provides, in relevant part, that no registered closed-end investment company shall purchase securities of which it is the issuer, except: (a) On a securities exchange or other open market; (b) pursuant to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (c) under other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors.

2. Rule 23c–3 under the Act permits an ''interval fund'' to make repurchase offers of between five and twenty-five percent of its outstanding shares at net asset value at periodic intervals pursuant to a fundamental policy of the interval fund. Rule 23c–3(b)(1) under the Act permits an interval fund to deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is paid to the interval fund and is reasonably intended to compensate the fund for expenses directly related to the repurchase.

3. Section 23(c)(3) provides that the Commission may issue an order that would permit a closed-end investment company to repurchase its shares in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

4. Applicants request relief under section 6(c), discussed above, and section 23(c)(3) from rule 23c–3 to the extent necessary for the Funds to impose EWCs on shares of the Funds submitted for repurchase that have been held for less than a specified period.

5. Applicants state that the EWCs they intend to impose are functionally similar to CDSLs imposed by open-end investment companies under rule 6c–10 under the Act. Rule 6c–10 permits open–end investment companies to impose CDSLs, subject to certain conditions. Applicants note that rule 6c–10 is grounded in policy considerations supporting the employment of CDSLs where there are adequate safeguards for the investor and state that the same policy considerations support imposition of EWCs in the interval fund context. In addition, applicants state that EWCs may be necessary for the distributor to recover distribution costs. Applicants represent that any EWC imposed by the Funds will comply with rule 6c–10 under the Act as if the rule were applicable to closed-end investment companies. The Funds will disclose EWCs in accordance with the requirements of Form N–1A concerning CDSLs.

Asset-Based Distribution and/or Service Fees

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to the extent necessary to permit the Fund to impose asset-based distribution and/or service fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies, which they believe will resolve any concerns that might arise in connection with a Fund financing the distribution of its shares through asset-based distribution fees.

3. For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further submit that the relief requested pursuant to section 23(c)(3) will be consistent with the protection of investors and will insure that applicants do not unfairly discriminate against any holders of the class of securities to be purchased. Finally, applicants state that the Funds' imposition of asset-based distribution and/or service fees is consistent with the provisions, policies and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3, 22d–1, and, where applicable, 11a–3 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the FINRA Sales Charge Rule, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87040; File No. SR–NYSEARCA–2019–65]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to a Change in the Name and Benchmark Index for the SPDR Nuveen S&P High Yield Municipal Bond ETF

September 20, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 12, 2019, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reflect a change in the name of the SPDR Nuveen S&P High Yield Municipal Bond ETF (''Fund'') and a change in the benchmark index for the Fund, shares of which are currently listed and traded on the Exchange pursuant to NYSE Arca Rule 5.2–E(j)(3), Commentary .02. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to reflect a change in the name of the SPDR Nuveen S&P High Yield Municipal Bond ETF and a change to the benchmark index for the Fund, shares (''Shares'') of which are currently listed and traded on the Exchange pursuant to NYSE Arca Rule 5.2–E(j)(3), Commentary .02, which governs the listing and trading of Investment Company Units (''Units'') [4] based on fixed income securities indexes.[5] The Fund is a series of the SPDR Series Trust (''Trust'').

As discussed below, the Exchange is submitting this proposed rule change to reflect a change to the name of the Fund and to change the listing requirements applicable to the Fund as set forth in the Approval Order. The name of the Fund going forward will be the SPDR Nuveen Bloomberg Barclays High Yield Municipal Bond ETF. In addition, the Exchange proposes to reflect a change to the benchmark index for the Fund to the ''New Index'' (as defined below). As discussed below, the New Index does not meet the requirement set forth in Commentary .02(a)(2).[6] As of June 30, 2019, 58.07% of the weight of the New Index components had a minimum principal amount outstanding of $100 million or more.

Description of the Shares and the Fund

As stated in the Approval Order, the Fund seeks to provide investment results that, before fees and expenses, correspond generally to the price and yield performance of the S&P Municipal Yield Index (''Current Index'') which tracks the U.S. municipal bond market. Going forward, the new benchmark index for the Fund will be the Bloomberg Barclays Municipal Yield Index (''New Index'').[7] The Exchange believes it is appropriate to facilitate the continued listing and trading of Shares of the Fund because, as described below, the Fund will be based on a broad-based index of fixed income municipal bond securities that is not readily susceptible to manipulation.

For informational purposes, as of June 30, 2019, the New Index included component fixed income municipal bond securities from issuers in 50 different states or U.S. territories. There were approximately 19,617 issues included in the New Index and the total dollar amount outstanding of issues in the New Index was approximately $228.4 billion. The most heavily weighted security in the New Index represented 2.07% of the total weight of the New Index and the aggregate weight of the top five most heavily weighted securities in the New Index represented approximately 5.03% of the total weight

[4] An open-end investment company that issues Units, listed and traded on the Exchange under NYSE Arca Rule 5.2–E(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] The Commission previously approved a proposed rule change to facilitate listing and trading of Shares of the Fund on the Exchange in Securities Exchange Act Release No. 63881 (February 9, 2011), 76 FR 9065 (February 16, 2011) (SR–NYSEArca–2010–120) (Order Approving a Proposed Rule Change to List and Trade Shares of the SPDR Nuveen S&P High Yield Municipal Bond ETF) (''Approval Order''). In addition, the Commission also has approved or issued a notice of effectiveness for other proposed rule changes relating to listing and trading of funds based on municipal bond indexes. *See, e.g.,* Securities Exchange Act Release Nos. 84396 (October 10, 2018), 83 FR 52266 (October 16, 2018) (SR–NYSEArca–34e5542018–70) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating To Listing and Trading of Shares of the iShares iBond Dec 2026 Term Muni Bond ETF Under Commentary .02 to NYSE Arca Rule 5.2–E(j)(3)); 84107 (September 13, 2018), 83 FR 47210 (September 18, 2018) (SR–CboeBZX–2018–070) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to List and Trade Shares of the iShares iBonds Dec 2025 Term Muni Bond ETF of iShares Trust Under BZX Rule 14.11(c)(4)); 85370 (March 20, 2019), 84 FR 11364 (March 26, 2019) (SR–Cboe BZX–2019–017) (Notice of Filing and Immediate Effectiveness of a Proposed Rule to List and Trade Shares of the iShares iBonds Dec 2026 Term Muni Bond ETF, iShares iBonds Dec 2027 Term Muni Bond ETF, and iShares iBonds Dec 2028 Term Muni Bond ETF Under BZX Rule 14.11(c)(4)). *See also* Securities Exchange Act Release No. 82295 (December 12, 2017), 82 FR 60056 (December 18, 2017) (SR–NYSEArca–2017–56) (Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, to List and Trade Shares of Twelve Series of Investment Company Units Pursuant to NYSE Arca Rule 5.2–E(j)(3)).

[6] Commentary .02(a)(2) to NYSE Arca Rule 5.2–E(j)(3) provides that Fixed Income Security components that in the aggregate account for at least 75% of the Fixed Income Securities portion of the weight of the index or portfolio each shall have a minimum original principal amount outstanding of $100 million or more.

[7] The Trust is registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act''). See the Trust's current registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) (''Securities Act''), and under the 1940 Act relating to the Fund (File Nos. 333–57793 and 811–08839) (''Registration Statement''). The Trust will file with the Commission an amendment to its Registration Statement relating to the name of the Fund and the New Index. The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief under the 1940 Act to the Trust and SSGA Funds Management, Inc. (the ''Adviser''). *See* Investment Company Act Release Nos. 27839 (May 25, 2007) (File No. 812–13356) (''Exemptive Order'') and 27809, (File No. 812–13356, (April 30, 2007) (the ''Notice'' and, together with the Exemptive Order, the ''Exemptive Relief'').

of the New Index. Approximately 58.07% of the weight of the components in the New Index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the New Index was approximately $228.4 billion and the average dollar amount outstanding of issues in the New Index was approximately $11.6 million.

Principal Investments

Under normal market conditions,[8] the Fund will invest substantially all, but at least 80%, of its total assets in the securities comprising the New Index.

Non-Principal Investments

With respect to the remaining 20% of its assets, the Fund may invest in the securities and financial instruments described below.

The Fund may invest in securities that the Adviser or any sub-adviser determines have economic characteristics that are substantially identical to the economic characteristics of the securities that comprise the New Index.[9]

The Fund may hold cash and cash equivalents, including, without limitation, money market instruments repurchase agreements, reverse repurchase agreements, money market funds and commercial paper.

The Fund may hold securities of other investment companies, consistent with the requirements of Section 12(d)(1) of the 1940 Act.

The Fund may hold exchange-traded futures on Treasuries or Eurodollars),[10] U.S. exchange-traded or OTC put and call options contracts and exchange-traded or OTC swap agreements (including interest rate swaps, total return swaps, excess return swaps and credit default swaps).

The Fund may hold treasury-inflation protected securities (''TIPs'') of the U.S. Treasury as well as major governments and emerging market countries.

The Fund may engage in foreign currency transactions.

The New Index does not meet the requirement set forth in Commentary .02(a)(2).[11] Specifically, as of June 30, 2019, 58.07% of the weight of the New Index components had a minimum principal amount outstanding of $100 million or more.

Requirement for New Index Constituents

On a continuous basis, the New Index will be comprised of securities that have an outstanding par value of at least $3 million and will include at least 500 components.

The Exchange represents that: (1) Except for Commentary .02(a)(2) to Rule 5.2–E(j)(3),[12] the New Index and the Fund, as applicable, currently satisfy all of the generic listing standards under Commentary .02(a) to NYSE Arca Rule 5.2–E(j)(3) and all other applicable initial listing standards under Rule 5.2–E(j)(3); (2) the continued listing standards under Commentary .02 to NYSE Arca Rule 5.2–E(j)(3) and all other continued listing standards applicable to Units based on fixed income securities set forth in Rule 5.2–E(3) [sic] will apply to the Shares of the Fund; and (3) the issuer of the Fund is required to comply with Rule 10A–3 [13] under the Act for the initial and continued listing of the Shares. The Exchange represents that the Fund will comply with all other requirements applicable to Units, including, but not limited to, requirements relating to the dissemination of key information such as the value of the New Index and the Intraday Indicative Value (''IIV''),[14] rules governing the trading of equity securities, trading hours, trading halts, surveillance, information barriers and the Information Bulletin, as set forth in the Exchange rules applicable to Units and prior Commission orders approving the generic listing rules applicable to the listing and trading of Units.[15]

Additional Information

The current value of the New Index will be widely disseminated by one or more major market data vendors at least once per day, as required by Commentary .02(b)(ii) to NYSE Arca Rule 5.2–E(j)(3). The portfolio of securities held by the Fund will be disclosed daily on the Fund's website *www.spdrs.com.*

Availability of Information

On each business day, the Fund discloses on its website (*www.spdrs.com*) the portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day.

On a daily basis, the Fund discloses for each portfolio security or other financial instrument of the Fund the following information on the Fund's website: Ticker symbol (if applicable); name of security and financial instrument; a common identifier such as CUSIP or ISIN (if applicable); number of shares (if applicable); strike price (if applicable); number of contracts for options and futures; notional value (if applicable); dollar value of securities and financial instruments held in the portfolio; percentage weighting of the security and financial instrument in the portfolio; and identity of the security, index or other asset on which futures, options or swaps are based. The website information is publicly available at no charge. The current value of the New Index will be widely disseminated by one or more major market data vendors at least once per day, as required by NYSE Arca Rule 5.2–E(j)(3), Commentary .02 (b)(ii).

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), the Fund's Shareholder Reports, and its Form N–CSR and Form N–PORT. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR and Form N–PORT may be viewed on-screen or downloaded from the Commission's website at *www.sec.gov.* Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Quotation and last sale information for the Shares of the Fund will be available via the Consolidated Tape Association (''CTA'') high speed line. Quotation information for investment

[8] The term ''normal market conditions'' is defined in NYSE Arca Rule 8.600–E(c)(5).

[9] The Adviser represents that the Exemptive Relief (see note 7, *supra*) permits a fund of the Trust to have at least 80% of its total assets in component securities of an index and investments that have economic characteristics that are substantially identical to the economic characteristics of the component securities of such index.

[10] All futures contracts held by the Fund will be traded on an exchange that is a member of the Intermarket Surveillance Group (''ISG'') or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[11] *See* note 6, *supra.*

[12] *See* note 6, *supra.*

[13] 17 CFR 240.10A–3.

[14] The IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session (normally, 9:30 a.m. to 4:00 p.m., E.T. Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IIV taken from CTA or other data feeds.

[15] *See, e.g.,* Securities Exchange Act Release Nos. 80189 (March 9, 2017), 82 FR 13889 (March 15, 2017) (SR–NYSEArca–2017–01) (order approving amendments to NYSE Arca Equities Rule 5 and Rule 8 Series); 55783 (May 17, 2007), 72 FR 29194 (May 24, 2007) (SR–NYSEArca–2007–36) (order approving NYSE Arca generic listing standards for Units based on a fixed income index); 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR–PCX–2001–14) (order approving generic listing standards for Units and Portfolio Depositary Receipts); 41983 (October 6, 1999), 64 FR 56008 (October 15, 1999) (SR–PCX–98–29) (order approving rules for listing and trading of Units).

company securities may be obtained through nationally recognized pricing services through subscription agreements or from brokers and dealers who make markets in such securities. Price information regarding municipal bonds is available from third party pricing services and major market data vendors. Trade price and other information relating to municipal bonds is available through the Municipal Securities Rulemaking Board's Electronic Municipal Market Access (''EMMA'') system.

Price information for OTC swaps agreements, OTC options, cash equivalents, foreign currencies, and other debt securities may be obtained from brokers and dealers who make markets in such instruments or major market data vendors. Quotation information for exchange-traded swaps, futures and options will be available from the applicable exchange and/or major market data vendors.

Surveillance

The Exchange represents that trading in the Shares of the Fund will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, or by regulatory staff of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares of the Fund in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.[16] The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, futures and certain options with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, futures and certain options from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, futures and certain options from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE''). FINRA also can access data obtained from the Municipal Securities Rulemaking Board relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act [17] in general and Section 6(b)(5) of the Act [18] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares of the Fund will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 5.2–E(j)(3), except for the requirement in Commentary .02(a)(2) that Fixed Income Security components that, in the aggregate, account for at least 75% of the Fixed Income Securities portion of the weight of the index or portfolio each shall have a minimum original principal amount outstanding of $100 million or more.

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.[19] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, futures and certain options with other markets that are members of the ISG. In addition, the Exchange will communicate as needed regarding trading in the Shares, futures and certain options with other markets that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE. FINRA also can access data obtained from the Municipal Securities Rulemaking Board relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

As discussed above, the Exchange believes that the New Index is sufficiently broad-based to deter potential manipulation. For informational purposes, as of June 30, 2019, the New Index included component fixed income municipal bond securities from issuers in 50 different states or U.S. territories. There were approximately 19,617 issues included in the New Index and the total dollar amount outstanding of issues in the New Index was approximately $228.4 billion. The most heavily weighted security in the index represented 2.07% of the total weight of the New Index and the aggregate weight of the top five most heavily weighted securities in the New Index represented approximately 5.03% of the total weight of the New Index. [20] Approximately 58.07% of the weight of the components in the New Index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the New Index was approximately $ 228.4 billion and the average dollar amount outstanding of issues in the New Index was approximately $11.6 million. Therefore,

[16] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(5).

[19] *See* note 16, *supra*.

[20] Commentary .02(a)(4) to NYSE Arca Rule 5.2–E(j)(3) provides that no component fixed-income security (excluding Treasury Securities and GSE Securities, as defined therein) shall represent more than 30% of the Fixed Income Securities portion of the weight of the index or portfolio, and the five most heavily weighted component fixed-income securities in the index or portfolio shall not in the aggregate account for more than 65% of the Fixed Income Securities portion of the weight of the index or portfolio.

the Exchange believes that the New Index is sufficiently broad-based to deter potential manipulation, given that it is comprised of approximately 19,617 issues.

On a continuous basis, the New Index will be comprised of securities that have an outstanding par value of at least $3 million and will include at least 500 components.

The Exchange represents that, except for Commentary .02(a)(2) to Rule 5.2–E(j)(3),[21] the New Index and the Fund, as applicable, currently satisfies all of the generic listing standards under Commentary .02(a) to NYSE Arca Rule 5.2–E(j)(3) and all other applicable initial listing standards under Rule 5.2–E(j)(3). In addition, the continued listing standards under Commentary .02 to NYSE Arca Rule 5.2–E(j)(3) and all other continued listing standards applicable to Units based on fixed income securities will apply to the Shares of the Fund.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. The Fund's portfolio holdings will be disclosed on the Fund's website daily after the close of trading on the Exchange. Moreover, the IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. The current value of the New Index will be disseminated by one or more major market data vendors at least once per day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will be available via the CTA high-speed line. The website for the Fund will include the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares.

If the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. If the IIV or the New Index values are not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV or New Index value occurs. If the interruption to the dissemination of the IIV or New Index value persists past the trading day in which it occurred, the Exchange will halt trading. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Rule 7.34–E, which sets forth circumstances under which Shares of the Fund may be halted. In addition, investors will have ready access to information regarding the IIV, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the continued listing and trading of an exchange-traded fund that holds municipal bonds and that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, investors will have ready access to information regarding the IIV and quotation and last sale information for the Shares.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.[22]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the continued listing and trading of the Fund, which will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (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[23] and subparagraph (f)(6) of Rule 19b–4 thereunder.[24]

A proposed rule change filed under Rule 19b–4(f)(6)[25] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[26] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay to permit the continued listing and trading of the Shares on the Exchange. The Exchange asserts that the proposal does not raise novel regulatory issues because the Commission has previously approved or issued notices of effectiveness with respect to the listing and trading of Units based on indexes with similar characteristics as those of the New Index.[27] For the foregoing reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[28]

[21] *See* note 6, *supra.*

[22] 15 U.S.C. 78f(b)(5).

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[25] 17 CFR 240.19b–4(f)(6).

[26] 17 CFR 240.19b–4(f)(6)(iii).

[27] *See* note 5, *supra.*

[28] For purposes only of waiving the 30-day operative delay, the Commission has considered the

Continued

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2019–65 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2019–65. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2019–65 and should be submitted on or before October 17, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–20872 Filed 9–25–19; 8:45 am]

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proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[29] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Change to SBA Secondary Market Program

AGENCY: U.S. Small Business Administration.

ACTION: Notice of change to Secondary Market Program.

SUMMARY: The purpose of this Notice is to inform the public that the Small Business Administration (SBA) is making a change to its Secondary Market Loan Pooling Program. SBA is decreasing the minimum maturity ratio for both SBA Standard Pools and Weighted-Average Coupon (WAC) Pools by 100 basis points, to 94.0%. The change described in this Notice is being made to ensure that there are sufficient funds to cover the estimated cost of the timely payment guaranty for newly formed SBA 7(a) loan pools. This change will be incorporated, as needed, into the SBA Secondary Market Program Guide and all other appropriate SBA Secondary Market documents.

DATES: This change will apply to SBA 7(a) loan pools with an issue date on or after October 1, 2019.

ADDRESSES: Address comments concerning this Notice to John M. Wade, Chief Secondary Market Division, U.S. Small Business Administration, 409 3rd Street SW, Washington, DC 20416; or, *john.wade@sba.gov.*

FOR FURTHER INFORMATION CONTACT: John M. Wade, Chief, Secondary Market Division at 202–205–3647 or *john.wade@sba.gov.*

SUPPLEMENTARY INFORMATION: The Secondary Market Improvements Act of 1984, 15 U.S.C. 634(f) through (h), authorized SBA to guarantee the timely payment of principal and interest on Pool Certificates. A Pool Certificate represents a fractional undivided interest in a ''Pool,'' which is an aggregation of SBA guaranteed portions of loans made by SBA Lenders under section 7(a) of the Small Business Act, 15 U.S.C. 636(a). In order to support the timely payment guaranty requirement, SBA established the Master Reserve Fund (MRF), which serves as a mechanism to cover the cost of SBA's timely payment guaranty. Borrower payments on the guaranteed portions of pooled loans, as well as SBA guaranty payments on defaulted pooled loans, are deposited into the MRF. Funds are held in the MRF until distributions are made to investors (Registered Holders) of Pool Certificates. The interest earned on the borrower payments and the SBA guaranty payments deposited into the MRF supports the timely payments made to Registered Holders.

From time to time, SBA provides guidance to SBA Pool Assemblers on the required loan and pool characteristics necessary to form a Pool. These characteristics include, among other things, the minimum number of guaranteed portions of loans required to form a Pool, the allowable difference between the highest and lowest gross and net note rates of the guaranteed portions of loans in a Pool, and the minimum maturity ratio of the guaranteed portions of loans in a Pool. The minimum maturity ratio is equal to the ratio of the shortest and the longest remaining term to maturity of the guaranteed portions of loans in a Pool.

Based on SBA's expectations as to the performance of future Pools, SBA has determined that SBA Pool Assemblers may increase the difference between the shortest and the longest remaining term of the guaranteed portions of loans in a Pool by 1 percentage point (*i.e.,* decreasing the minimum maturity ratio by 100 basis points). SBA does not expect a 1 percentage point reduction in the minimum maturity ratio to have an adverse impact on either the program or the participants in the program. Pools formed over the last fiscal year were required by SBA to have a minimum maturity ratio of at least 95.0%. SBA is now lowering the requirement so that Pools formed may have a minimum maturity ratio of at least 94.0%.Therefore, effective October 1, 2019, all guaranteed portions of loans in Standard Pools and WAC Pools presented for settlement with SBA's Fiscal Transfer Agent will be required to have a minimum maturity ratio of at least 94.0%. SBA is making this change pursuant to Section 5(g)(2) of the Small Business Act, 15 U.S.C. 634(g)(2).

SBA will continue to monitor loan and pool characteristics and will provide notification of additional changes as necessary. It is important to

note that there is no change to SBA's obligation to honor its guaranty of the amounts owed to Registered Holders of Pool Certificates and that such guaranty continues to be backed by the full faith and credit of the United States.

This program change will be incorporated as necessary into SBA's Secondary Market Guide and all other appropriate SBA Secondary Market documents. As indicated above, this change will be effective for Standard Pools and WAC Pools with an issue date on or after October 1, 2019.

Dated: September 20, 2019.

William M. Manger,

Associate Administrator, Office of Capital Access.

[FR Doc. 2019–20878 Filed 9–25–19; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 2.13 percent for the October–December quarter of FY 2020.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any third party lender's commercial loan which funds any portion of the cost of a 504 project (see 13 CFR 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given State, the maximum interest rate will be the rate permitted by the constitution or laws of the given State.

Dianna L. Seaborn.

Director, Office of Financial Assistance.

[FR Doc. 2019–20942 Filed 9–25–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice 10880]

30-Day Notice of Proposed Information Collection: U.S. Passport Renewal Application for Eligible Individuals

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. 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 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to October 28, 2019.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* U.S. Passport Renewal Application for Eligible Individuals.
- *OMB Control Number:* 1405–0020.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services (CA/PPT).
- *Form Number:* DS–0082.
- *Respondents:* Individuals or Households.
- *Estimated Number of Respondents:* 6,451,667.
- *Estimated Number of Responses:* 6,451,667.
- *Average Time per Response:* 40 minutes.
- *Total Estimated Burden Time:* 4,301,111 hours per year.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to Obtain a Benefit.

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 U.S. Passport Renewal Application for Eligible Individuals (Form DS–82) is used by eligible citizens and non-citizen nationals (hereinafter, collectively referred to as ''nationals'') of the United States who need to renew their current or recently-expired U.S. passport (a travel document attesting to one's identity and U.S. nationality).

Methodology

Passport Services collects information from U.S. citizens and non-citizen nationals when they complete and submit the DS–82, ''U.S. Passport Renewal Application for Eligible Individuals.'' Passport applicants can either download the DS–82 from the internet or obtain the form from an Acceptance Facility/Passport Agency. The form must be completed, signed, and be submitted by mail (or in person at Passport Agencies domestically or embassies/consulates overseas).

Barry J. Conway,

Acting Deputy Assistant Secretary for Passport Services.

[FR Doc. 2019–20910 Filed 9–25–19; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2019–0755]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Alternative Pilot Physical Examination and Education Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the FAA invites public comments about our intention to request Office of Management and Budget (OMB) approval to renew an information collection. The Federal Aviation Administration Extension, Safety, and Security Act of 2016 was enacted on July 15, 2016. Section 2307 of FESSA, Medical Certification of Certain Small Aircraft Pilots, directed the FAA to

''issue or revise regulations to ensure that an individual may operate as pilot in command of a covered aircraft'' without having to undergo the medical certification process prescribed by FAA regulations if the pilot and aircraft meet certain prescribed conditions as outlined in FESSA. This collection enables those eligible airmen to establish their eligibility with the FAA.

DATES: Written comments should be submitted by November 25, 2019.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: Dwayne C. Morris, AFS–820, 800 Independence Ave. SW, Washington, DC 20591.

By email: chris.morris@faa.gov.

FOR FURTHER INFORMATION CONTACT: Bradley C. Zeigler by email at: *bradley.c.zeigler@faa.gov*; phone: 202–267–9601.

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: 2120–0770.

Title: Alternative Pilot Physical Examination and Education Requirements.

Form Numbers: FAA forms 8700–2 and 8700–3.

Type of Review: Renewal.

Background: The FAA will use this information to determine that individual pilots have met the requirements of section 2307 of Public Law 114–190. It is important for the FAA to know this information as the vast majority of pilots conducting operations described in section 2307 of Public Law 114–190 must either hold a valid medical certificate or be conducting operations using the requirements of section 2307 as an alternative to holding a medical certificate.

The FAA published a final rule, Alternative Pilot Physical Examination and Education Requirements, to implement the provisions of section 2307, on January 11, 2017.

Respondents: Approximately 50,000 individuals.

Frequency: Course: Once every two years; medical exam: once every four years.

Estimated Average Burden per Response: 21 minutes.

Estimated Total Annual Burden: 17,500 hours.

Issued in Washington, DC on September 23, 2019.

Dwayne C. Morris,

Project Manager, Flight Standards Service, General Aviation and Commercial Division.

[FR Doc. 2019–20901 Filed 9–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0159]

Parts and Accessories Necessary for Safe Operation; Vision Systems North America, Inc. Application for an Exemption

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

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on an exemption application from Vision Systems North America, Inc. (VSNA) to allow motor carriers to operate commercial motor vehicles (CMVs) equipped with the company's Smart-Vision high definition camera monitoring system (Smart-Vision) as an alternative to the two rear-vision mirrors required by the Federal Motor Carrier Safety Regulations (FMCSRs). VSNA states that its Smart-Vision system provides the same functionality and view as traditional mirrors but with high-definition cameras and interior displays. VSNA believes the exemption would maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because the Smart-Vision system meets or exceeds the performance requirements for traditional mirrors under the National Highway Traffic Safety Administration (NHTSA)'s standards, which are cross-referenced by the FMCSRs.

DATES: Comments must be received on or before October 28, 2019.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2019–0159 using any of the following methods:

- *Website: http://www.regulations.gov.* Follow the instructions for submitting comments on the Federal electronic docket site.
- *Fax:* (202) 493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday-Friday, except Federal holidays.
- Submissions Containing Confidential Business Information (CBI): Mr. Brian Dahlin, Chief, Regulatory Evaluation Division, 1200 New Jersey Avenue SE, Washington, DC 20590.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments, including information collection comments for the Office of Information and Regulatory Affairs, OMB.

FOR FURTHER INFORMATION CONTACT: Mr. Jose Cestero, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–5541; *jose.cestero@dot.gov.*

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2019–0159), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov/#!docketDetail;D=FMCSA-2019-0159,* click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may make changes based on your comments.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as ''PROPIN'' to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of the NPRM. Submissions containing CBI should be sent to Mr. Brian Dahlin, Chief, Regulatory Analysis Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington DC 20590. Any comments FMCSA receives which are not specifically designated as CBI will be placed in the public docket for this rulemaking.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov/#!docketDetail;D=FMCSA-2019-0159* and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting Docket Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Background

Under Agency regulations, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The Agency's decision must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

VSNA Application for Exemption

VSNA has applied for an exemption from 49 CFR 393.80(a) to allow its Smart-Vision system to be installed as an alternative to the two rear-vision mirrors required on CMVs. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.80(a) of the FMCSRs requires that each bus, truck, and truck-tractor be equipped with two rear-vision mirrors, one at each side. The mirrors must be positioned to reflect to the driver a view of the highway to the rear and the area along both sides of the CMV. Section 393.80(a) cross-references NTHSA's standards for mirrors on motor vehicles (49 CFR 571.111, Federal Motor Vehicle Safety Standard [FMVSS] No. 111). Paragraph S7.1 of FMVSS No. 111 provides requirements for mirrors on multipurpose passenger vehicles and trucks with a gross vehicle weight rating (GVWR) greater than 4,536 kg and less than 11,340 kg and each bus, other than a school bus, with a GVWR of more than 4,536 kg. Paragraph S8.1 provides requirements for mirrors on multipurpose passenger vehicles and trucks with a GVWR of 11,340 kg or more.

The Smart-Vision system consists of multiple digital cameras firmly mounted high on the exterior of the vehicle, enclosed in an aerodynamic package that provides both environmental protection for the cameras and a mounting location for optimal visibility. Each camera has proprietary video processing software that presents a clear, high-definition image to the driver by means of a monitor firmly mounted to each A-pillar of the CMV, *i.e.,* the structural member between the windshield and door of the cab. VSNA explains that attaching the monitors to the A-pillars avoids the creation of incremental blind spots while eliminating the blind spots associated with conventional mirrors. VSNA states that its Smart-Vision system meets or exceeds the visibility requirements in FMVSS No. 111 based on the following factors:

- *Increased field of view (FOV) when compared to conventional mirrors*—The Smart-Vision system enables the driver to see (1) vehicles and pedestrians in the ''No-Zone,'' (2) multiple lanes of traffic and overtaking vehicles that are entering the commercial vehicle ''No-Zone,'' (3) tire fires, and (4) loose straps, ropes, or chains when transporting open cargo.
- *Increased Image Quality*—The Smart-Vision system provides enhanced vision in inclement weather, higher visibility in low light conditions, and filters out sunlight glare at dawn and dusk, improving driver visibility.
- *Fail-safe design*—The Smart-Vision system has a fail-safe design due to the independent video processing of multiple camera images, additionally supported by software diagnostics to ensure that ''real time images'' are displayed and that any unlikely partial failure is clearly identified.
- *Reduced Driver Fatigue*—The Smart-Vision system results in less lateral head and eye movement due to the monitor location on the A-pillar, and VSNA believes that this may result in lower levels of driver fatigue after extended driving times.

The exemption would apply to all CMV operators driving vehicles equipped with the Smart-Vision system. VSNA believes that mounting the system as described would maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on

VSNA's application for an exemption from 49 CFR 393.80(a). All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice.

Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: September 19, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019–20904 Filed 9–25–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0095]

Deepwater Port License Application: West Delta LNG LLC

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of Application.

SUMMARY: The Maritime Administration (MARAD) and the U.S. Coast Guard (USCG) announce they have received an application from West Delta LNG LLC (Applicant) for the licensing of a deepwater port and that the application for the West Delta LNG deepwater port (West Delta LNG) contains information sufficient to commence processing. This notice summarizes the Applicant's plans and the procedures that will be followed in considering the application.

DATES: The Deepwater Port Act of 1974, as amended, requires at least one public hearing on this application to be held in the designated Adjacent Coastal State(s) not later than 240 days after publication of this notice, and a decision on the application not later than 90 days after the final public hearing(s).

ADDRESSES: The public docket for the West Delta LNG deepwater port license application is maintained by the U.S. Department of Transportation, Docket Management Facility, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The license application is available for viewing at the *Regulations.gov* website: *http://www.regulations.gov* under docket number MARAD–2019–0095.

We encourage you to submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* Alternatively, comments may be mailed to the public docket at the address listed above or faxed to 202–493–2251. Comments that are sent to the docket should include the docket number, which is MARAD–2019–0095.

If you submit your comments electronically, it is not necessary to also submit a hard copy. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted. Anonymous comments will be accepted. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. The Federal Docket Management Facility's telephone number is 202–366–9317 or 202–366–9826, the fax number is 202–493–2251. If you cannot submit material using *http://www.regulations.gov,* please contact either Mr. Matthew Layman, USCG or Ms. Yvette Fields, MARAD, as listed in the following **FOR FURTHER INFORMATION CONTACT** section of this document.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Layman, U.S. Coast Guard, telephone: 202–372–1421, email: *Matthew.D.Layman@uscg.mil,* or Ms. Yvette Fields, Maritime Administration, telephone: 202–366–0926, email: *Yvette.Fields@dot.gov.* For questions regarding viewing the Docket, call Docket Operations, telephone: 202–366–9317 or 202–366–9826.

SUPPLEMENTARY INFORMATION:

Receipt of Application

On August 28, 2019, MARAD and USCG received an application from the Applicant for all Federal authorizations required for a license to own, construct, and operate a deepwater port for the export of natural gas as authorized by the Deepwater Port Act of 1974, as amended, 33 U.S.C. 1501 *et seq.* (the Act), and implemented under 33 Code of Federal Regulations (CFR) Parts 148, 149, and 150. After a coordinated completeness review by MARAD, the USCG, and other cooperating Federal agencies, the application is deemed complete and contains information sufficient to initiate processing.

Background

The Act defines a deepwater port as any fixed or floating manmade structure other than a vessel, or any group of such structures, that are located beyond State seaward boundaries and used or intended for use as a port or terminal for the transportation, storage, and further handling of oil or natural gas for transportation to, or from, any State. A deepwater port includes all components and equipment, including pipelines, pumping or compressor stations, service platforms, buoys, mooring lines, and similar facilities that are proposed as part of a deepwater port to the extent they are located seaward of the high-water mark.

The Secretary of Transportation delegated to the Maritime Administrator authorities related to licensing deepwater ports (49 CFR 1.93(h)). Statutory and regulatory requirements for processing applications and licensing appear in 33 U.S.C. 1501 *et seq.* and 33 CFR part 148. Under delegations from, and agreements between, the Secretary of Transportation and the Secretary of Homeland Security, applications are jointly processed by MARAD and USCG. Each application is considered on its merits.

In accordance with 33 U.S.C. 1504(f) for all applications, MARAD and the USCG, working in cooperation with other involved Federal agencies and departments, shall comply with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). The U.S. Environmental Protection Agency (EPA), the U.S. Army Corps of Engineers (USACE), the National Oceanic and Atmospheric Administration (NOAA), the Bureau of Ocean Energy Management (BOEM), the Bureau of Safety and Environmental Enforcement (BSEE), and the Pipeline and Hazardous Materials Safety Administration (PHMSA), among others, participate in the processing of deepwater port applications and assist in the NEPA process as described in 40 CFR 1501.6. Each agency may participate in scoping and/or other public meeting(s), and may incorporate the MARAD/USCG environmental impact review for purposes of their jurisdictional permitting processes, to the extent applicable. Comments related to this deepwater port application addressed to the EPA, USACE, or other federal agencies should note the federal docket number, MARAD–2019–0095. Each comment will be incorporated into the Department of Transportation (DOT) docket and considered as the environmental impact analysis is developed to ensure consistency with the NEPA process.

All connected actions, permits, approvals and authorizations will be considered during the processing of the

West Delta LNG deepwater port license application.

MARAD, in issuing this Notice of Application pursuant to 33 U.S.C. 1504(c), must designate as an ''Adjacent Coastal State'' any coastal state which (A) would be directly connected by pipeline to a deepwater port as proposed in an application, or (B) would be located within 15 nautical miles of any such proposed deepwater port (see 33 U.S.C. 1508(a)(1)). Pursuant to the criteria provided in the Act, Louisiana is the designated Adjacent Coastal State for this application. Other states may request from the Maritime Administrator designation as an Adjacent Coastal State in accordance with 33 U.S.C. 1508(a)(2).

The Act directs that at least one public hearing take place in each Adjacent Coastal State, in this case, Louisiana. Additional public meetings may be conducted to solicit comments for the environmental analysis to include public scoping meetings, or meetings to discuss the Draft and Final Environmental Impact Statement documents prepared in accordance with NEPA.

MARAD, in coordination with the USCG, will publish additional **Federal Register** notices with information regarding these public meeting(s) and hearing(s) and other procedural milestones, including the NEPA environmental impact review. The Maritime Administrator's decision, and other key documents, will be filed in the public docket for the application at docket number MARAD–2019–0095.

The Act imposes a strict timeline for processing an application. When MARAD and USCG determine that an application is complete (*i.e.,* contains information sufficient to commence processing), the Act directs that all public hearings on the application be concluded within 240 days from the date the Notice of Application is published.

Within 45 days after the final hearing, the Governor of the Adjacent Costal State, in this case the Governor of Louisiana, may notify MARAD of their approval, approval with conditions, or disapproval of the application. If such approval, approval with conditions, or disapproval is not provided to the Maritime Administrator by that time, approval shall be conclusively presumed. MARAD may not issue a license without the explicit or presumptive approval of the Governor of the Adjacent Coastal State. During this 45-day period, the Governor may also notify MARAD of inconsistencies between the application and State programs relating to environmental protection, land and water use, and coastal zone management. In this case, MARAD may condition the license to make it consistent with such state programs (33 U.S.C. 1508(b)(1)). MARAD will not consider written approvals or disapprovals of the application from the Governor of the Adjacent Coastal State until after the final public hearing is complete and the 45-day period commences following the publication of the Final Environmental Impact Statement. The Maritime Administrator must render a decision on the application within 90 days after the final hearing.

Should a favorable record of decision be rendered and a license be issued, MARAD may include specific conditions related to design, construction, operations, environmental permitting, monitoring and mitigations, and financial responsibilities. If a license is issued, USCG in coordination with other agencies as appropriate, would review and approve the deepwater port's engineering, design, and construction; operations/security procedures; waterways management and regulated navigation areas; maritime safety and security requirements; risk assessment; and compliance with domestic and international laws and regulations for vessels that may call on the port. The deepwater port would be designed, constructed and operated in accordance with applicable codes and standards.

In addition, installation of pipelines and other structures may require permits under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, which are administered by the USACE.

Permits from the EPA may also be required pursuant to the provisions of the Clean Air Act, as amended, and the Clean Water Act, as amended.

Summary of the Application

The application proposes the ownership, construction, operation and eventual decommissioning of a deepwater port terminal in the Gulf of Mexico to export domestically produced natural gas. In the nominal design case, the Venice Pretreatment Plant would process approximately 750 million standard cubic feet per day (MMscfd) of feed natural gas for the proposed West Delta LNG deepwater port. Based on an estimated production unit availability of 95.4 percent and an allowance for consumption of feed gas during the liquefaction process, the proposed West Delta LNG deepwater port would nominally produce 5.0 MMtpa of liquefied natural gas (LNG) for export. In the optimized case, the proposed project would process approximately 900 MMscfd of feed natural gas to produce approximately 6.1 MMtpa of liquefied natural gas for export, or the equivalent of 306 billion standard cubic feet per year of LNG.

The trading carriers calling on the West Delta LNG deepwater port would have nominal cargo capacities ranging from 30,000 cubic meters (m^3) to 180,000 m^3. For trading carriers of 180,000 m^3 capacity, the Applicant anticipates a steady state loading rate of 12,000 m^3 that would allow a 24-hour turnaround period, including time for berthing, system connections, and custody transfer administration. For LNG trading carriers of 30,000 m^3 capacity, the Applicant anticipates a shorter loading and turnaround time of 14 hours. The overall project would consist of offshore components as well as onshore components.

Offshore and Marine Components of the Deepwater Port

The West Delta LNG deepwater port offshore and marine components would consist of an LNG production and storage unit, a loading platform and marine berth unit and support facilities, as described below:

- The proposed deepwater port will consist of thirteen (13) fixed bridge connected platforms with piles in Outer Continental Shelf West Delta Lease Block 44, approximately 10.5 nautical miles off the coast of Plaquemines Parish, Louisiana in a water depth of approximately 57 to 60 feet, with the gas arrival platform located at latitude 29° 04′ 56.11″ N and longitude 89° 39′ 16.00″ W. Eleven (11) bridges would connect the platforms and marine berth and provide for piping, electrical, instrument/automation, and personnel transit between platforms.
- The LNG production and storage unit will contain a gas arrival platform where liquefaction-ready gas would be supplied by the Venice Pretreatment Plant described below and a proposed 30-inch subsea pipeline that would terminate at the gas arrival platform. The production platform will consist of three (3) LNG production platforms capable of accommodating a total of six (6) liquefaction trains (two [2] trains per platform), with each liquefaction train system consisting of one (1) 0.83–MMtpa liquefaction unit and one (1) ethane extraction system. Additionally, the West Delta LNG deepwater port would have five (5) LNG storage platforms outfitted with three (3) 20,000 m^3 FSP storage tanks providing 60,000 m^3 of LNG per storage platform for a total storage capacity of 300,000 m^3. A flare tripod platform equipped with a

flare stack, smokeless tips, and ignition system(s) and scrubbers would be provided to safely burn all vented gas.

• The West Delta LNG loading platform and marine berthing facilities will contain a loading arm system located on the LNG loading platform that would be used to load LNG onto a single LNG trading carrier. The loading and marine berth would be capable of handling LNG trading carriers with nominal capacities ranging from 30,000 m^3 up to 180,000 m^3. The West Delta LNG deepwater port would include six (6) mooring dolphins and four (4) breasting dolphins. Breasting dolphins and mooring dolphins are marine structures used for berthing and mooring of vessels.

• The support facilities will contain an accommodation platform for West Delta LNG personnel and shall include living quarters for up to 36 people, a control station, helideck, and an auxiliary command room. All main power and essential power, other than the dedicated emergency generator located on the accommodations platform would be created and distributed from the utilities platform.

• The loading platform is connected to offshore liquefied natural gas tankers with a 180,000 m^3 nominal capacity for loading by two (2) 16-inch (40.6-centimeter) diameter standard liquid arms; one (1) hybrid (liquid/vapor) 16-inch diameter arm; and one (1) 16-inch diameter standard vapor arm. Depending on manifold restrictions, two (2) liquid arms and one (1) vapor arm would be used to load the 30,000 m^3 nominal capacity LNG trading carriers.

Onshore Components of the Deepwater Port

The West Delta LNG deepwater port onshore components would consist of the proposed Venice Pretreatment Plant, which would be located in Plaquemines Parish, Louisiana within the grounds of an existing 121-acre onshore natural gas processing facility known as the Venice Gas Complex. The onshore components are as follows:

• The Venice Pretreatment Plant would receive natural gas from offshore Gulf of Mexico midstream pipelines and/or interstate pipeline feed gas from pipelines already interconnected with the Venice Gas Complex. The natural gas would be pre-treated to meet liquefaction specifications, compressed onshore, and sent to the West Delta LNG offshore deepwater port.

• The proposed Venice Pretreatment Plant would contain the following major components for the pre-treatment and processing of sourced natural gas: Cryogenic trains to process offshore-sourced gas, natural gas compressors, gas pretreatment packages, power generation units driven by gas turbines, waste heat recovery units, utilities to support the new gas pretreatment and compression equipment and a flare to combust waste gas from the pretreatment process.

The onshore components connect to the offshore components by a single pipeline. This pipeline would be constructed to transfer the liquefaction-ready gas from the proposed onshore Venice Pretreatment Plant to the West Delta LNG deepwater port. The proposed pipeline's outgoing onshore assembly is a 4.3 statute mile 30-inch diameter connection from the Venice Pretreatment Plant (measured from the proposed pig launcher to the high water mark) where this pipeline becomes the subsea pipeline supplying the offshore deepwater port. At this point, the pipeline continues, extending 15.5 statute miles beyond the high water mark to terminate at the proposed West Delta LNG offshore deepwater port.

Privacy Act

The electronic form of all comments received into the Federal Docket Management System can be searched by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). The DOT Privacy Act Statement can be viewed in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, pages 19477–78) or by visiting *www.regulations.gov.*

(Authority: 33 U.S.C. 1501, *et seq.*; 49 CFR 1.93(h))

Dated: September 23, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–20929 Filed 9–25–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0163; PDA–39(R)]

Hazardous Materials: Oregon Hazardous Waste Management Regulation

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT).

ACTION: Notice of rejection of application for an administrative determination of preemption.

SUMMARY: NORA, An Association of Responsible Recyclers, has petitioned for an administrative determination that the Hazardous Materials Transportation Act (HMTA) preempts an Oregon hazardous waste regulation to the extent that Oregon interprets the regulation as imposing a strict liability standard on transporters of hazardous waste. Because the HMTA's preemption provisions—including the provision granting the Department the authority to make administrative preemption determinations—expressly do not apply to a ''mental state . . . utilized by a State . . . to enforce a requirement applicable to the transportation of hazardous material,'' PHMSA lacks authority to act on NORA's petition. PHMSA therefore rejects the petition.

FOR FURTHER INFORMATION CONTACT: Vincent Lopez, Office of Chief Counsel (PHC–10), Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone No. 202–366–4400; facsimile No. 202–366–7041.

SUPPLEMENTARY INFORMATION:

I. Background

NORA, An Association of Responsible Recyclers (NORA) has applied to PHMSA for a determination that the federal Hazardous Materials Transportation Act (HMTA), 49 U.S.C. 5101 *et seq.,* preempts Oregon Administrative Rule (OAR) 340–100–0002(1), as applied to transporters of hazardous waste. Specifically, NORA states that the Oregon Environmental Quality Commission (OEQC) interprets the Oregon regulation—which adopts certain regulations of the United States Environmental Protection Agency (EPA), including EPA's regulation requiring transporters to receive a manifest before transporting hazardous waste, 40 CFR 263.20(a)(1)—as imposing a strict liability standard on transporters of hazardous waste. According to NORA, under Oregon law, ''the transporter exercising reasonable care may not rely on the information provided by the generator and instead must be held to a strict liability standard'' (emphasis omitted). PHMSA invited public comment on NORA's application on January 24, 2017, *see* 82 FR 8257. For the reasons set forth below, PHMSA has concluded that it lacks authority with respect to NORA's application, and therefore rejects it.

II. Oregon Law

The legal framework that governs hazardous waste consists of overlapping federal and state authority. At the federal level, EPA, under authority granted by the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 321 *et seq.,* has promulgated regulations to control hazardous waste. This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. Any state may seek EPA authorization to administer and enforce a hazardous waste program. In Oregon, EPA has authorized the state to administer its own hazardous waste program, which it does through the Department of Environmental Quality and the OEQC.

The relevant Oregon regulation, OAR 340–100–0002 Adoption of United States Environmental Protection Agency Hazardous Waste and Used Oil Management Regulations, states in part, ''[e]xcept as otherwise modified or specified by OAR 340, divisions 100 to 106, 109, 111, 113, 120, 124 and 142, the Commission adopts by reference, and requires every person subject to ORS 466.005 to 466.080 and 466.090 to 466.215, to comply with the rules and regulations governing the management of hazardous waste, including its generation, transportation, treatment, storage, recycling and disposal, as the United States Environmental Protection Agency prescribes in 40 CFR parts 260 to 268, 270, 273 and Subpart A and Subpart B of Part 124, ...'' OAR 340–100–0002(1).

The EPA manifest requirement, 40 CFR 263.20(a)(1), which is one of the regulations that Oregon has adopted, reads in part, ''[a] transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest . . . signed in accordance with the requirement of § 263.23 . . . .'' 40 CFR 263.20(a)(1).

As noted above, NORA states that under OEQC's interpretation of this requirement, a ''transporter exercising reasonable care may not rely on the information provided by the generator and instead must be held to a strict liability standard.'' The Oregon Supreme Court has recently upheld OEQC's interpretation. *See Oil Re-Refining Co.* v. *Envtl. Quality Comm'n,* 388 P.3d 1071 (Or. 2017).

III. Federal Preemption

PHMSA has the authority under the HMTA to preempt state law. Generally, the HMTA preemption standards preclude non-federal governments from imposing requirements applicable to hazardous materials transportation if (1) complying with the non-Federal requirement and the Federal requirement is not possible; or (2) the non-Federal requirement, as applied and enforced, is an obstacle to accomplishing and carrying out the Federal requirement.

Furthermore, unless it is authorized by another federal law or a waiver of preemption from the Secretary of Transportation, a non-federal requirement applicable to any one of several specified covered subjects is preempted if it is not substantively the same as the HMTA, the HMR, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security. The five subject areas include: The designation, description, and classification of hazardous material; the packing, repacking, handling, labeling, marking, and placarding of hazardous material; the preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents; the written notification, recording, and reporting of the unintentional release in transportation of hazardous material and other written hazardous materials transportation incident reporting involving State or local emergency responders in the initial response to the incident; and the designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce. *See* 49 U.S.C. 5125(a) and (b).

To be ''substantively the same,'' the non-Federal requirement must conform ''in every significant respect to the Federal requirement. Editorial and other similar *de minimis* changes are permitted.'' 49 CFR 107.202(d).

Notwithstanding these preemption standards, Congress limited the applicability of HMTA preemption with respect to non-federal enforcement standards. For the purposes of this proceeding, the relevant portion of the statute is 49 U.S.C. 5125(h), and it reads as follows: ''Non-Federal enforcement standards.—This section does not apply to any procedure, penalty, required mental state, or other standard utilized by a State, political subdivision of a State, or Indian tribe to enforce a requirement applicable to the transportation of hazardous material.'' 49 U.S.C. 5125(h).

IV. NORA's Application

NORA contends that OEQC's ''strict liability'' interpretation of the Oregon regulation conflicts with 49 CFR 171.2(f), a provision of the HMR providing that ''[e]ach carrier who transports a hazardous material in commerce may rely on information provided by the offeror of the hazardous material or a prior carrier, unless the carrier knows or, a reasonable person, acting in the circumstances and exercising reasonable care, would have knowledge that the information provided by the offeror or prior carrier is incorrect.'' NORA presents three specific arguments. First, NORA contends that it is not possible to comply with both the Oregon rule and the federal regulation because the ''HMTA regulation requires the transporter to exercise reasonable care'' while Oregon's strict liability interpretation does not. Next, NORA argues that Oregon's strict liability standard creates an obstacle to carrying out the federal regulation, since it discourages the exercise of reasonable care. Furthermore, NORA opines that the State's inconsistent strict liability standard will encourage the misclassification of hazardous material. Finally, NORA states that ''a strict liability standard is not 'substantively the same' as a reasonable care liability standard.'' NORA notes that ''under Oregon's interpretation, a transporter who satisfies the reasonable care standard in section 171.2(f) would nonetheless be strictly liable for the generator's waste mischaracterization.''

V. Decision

As noted above, 49 U.S.C. 5125 sets out standards for determining whether state and local laws are preempted, and authorizes the Secretary of Transportation to make administrative preemption determinations. Section 5125, however, expressly ''does not apply to any procedure, penalty, required mental state, or other standard utilized by a State . . . to enforce a requirement applicable to the transportation of hazardous material.'' 49 U.S.C. 5125(h); *see also* H.R. Rep. No. 109–203, at 1083 (2005) (noting that the amendment ''clarifies that the Secretary's preemption authority does not apply to a procedure, penalty, required mental state, or other standard used by a State, political subdivision of a State, or Indian tribe to enforce hazardous material transportation requirements.''). H.R. Rep. No. 109–203, at 1083 (2005).

NORA's application argues that Oregon's imposition of a ''strict

liability'' standard—a ''required mental state''—is preempted by the HMTA. 49 U.S.C. 5125(h) expressly specifies that the HMTA's preemption provision does not apply to such a claim, and that PHMSA lacks authority to make a determination with respect to such a claim. PHMSA therefore rejects NORA's application.

Issued in Washington, DC, on September 20, 2019.

Paul J. Roberti,

Chief Counsel, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2019–20880 Filed 9–25–19; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of three entities that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On September 20, 2019, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following three entities are blocked under the relevant sanctions authority listed below.

BILLING CODE 4810–AL–P

Entities

1. BANK MARKAZI JOMHOURI ISLAMI IRAN (a.k.a. BANK MARKAZI IRAN; a.k.a. CENTRAL BANK OF IRAN; a.k.a. CENTRAL BANK OF THE ISLAMIC REPUBLIC OF IRAN (Arabic: بانک مرکزی جمهوری اسلامی ایران) PO Box 15875/7177, 144 Mirdamad Blvd, Tehran, Iran; 213 Ferdowsi Avenue, Tehran 11365, Iran; Mirdamad Blvd, 144 - P.O. Box 15875/7/77, Tehran, Iran; Additional Sanctions Information - Subject to Secondary Sanctions [IRAN] [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE; Linked To: HIZBALLAH).

   Designated pursuant to section 1(a)(iii)(C) of Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism" (E.O. 13224), as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of the ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE, an entity whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, goods or services to or in support of LEBANESE HIZBALLAH, an entity whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. NATIONAL DEVELOPMENT FUND OF IRAN (a.k.a. NATIONAL DEVELOPMENT FUND OF ISLAMIC REPUBLIC OF IRAN (Arabic: صندوق توسعه ملی جمهوری اسلامی ایران)), No. 25 Gandhi St., Building National Development Fund of Iran, Tehran 15176-55911, Iran; Additional Sanctions Information - Subject to Secondary Sanctions [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE; Linked To: MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS).

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of the ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE, an entity whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, goods or services to or in support of the MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS, an entity whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

3. ETEMAD TEJARATE PARS CO., No. 101 Sohrevardi St., Tehran, Iran; Additional Sanctions Information - Subject to Secondary Sanctions [SDGT] (Linked To: MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of the MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS, an entity whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Dated: September 23, 2019.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2019–20924 Filed 9–25–19; 8:45 am]

BILLING CODE 4810–AL–C

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple IRS Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before October 28, 2019 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the 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 Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov*.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Spencer Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov*.

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

Title: Asset Acquisition Statement.

OMB Control Number: 1545–1021.

Type of Review: Extension without change of a currently approved collection.

Description: Section 1060 requires reporting to the IRS, as prescribed by regulations, by the buyer and seller of the total consideration paid for assets in an applicable asset acquisition. The information required to be reported includes the amount allocated to goodwill or going concern value. TD 8940 contained final regulations relating to deemed and actual asset acquisitions under sections 338 and 1060. Regulations section 1.1060–1 establishes the time for filing and the content of Form 8594. Form 8594 is used by the buyer and seller of assets to which goodwill or going concern value can attach to report the allocation of the purchase price among the transferred assets.

Form: 8594.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 1,310.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 1,310.

Estimated Time per Response: 17.49 hours.

Estimated Total Annual Burden Hours: 22,910.

Title: Annual Return/Report of Employee Benefit Plan.

OMB Control Number: 1545–1610.

Type of Review: Revision of a currently approved collection.

Description: Form 5500 is an annual information return filed by employee benefit plans. The IRS uses this information to determine if the plan appears to be operating properly as required under the law or whether the plan should be audited.

Form: Sch C (Form 5500), 5500, Sch MB (Form 5500), Sch I (Form 5500), Sch H (Form 5500), Sch A (Form 5500), Sch D (Form 5500), Sch R (Form 5500), Sch SB (Form 5500), 5500SF, Sch G (Form 5500), 5500–SUP, 5500–EZ.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 804,500.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 804,500.

Estimated Time per Response: .41 hours.

Estimated Total Annual Burden Hours: 330,208.

Title: Statement of Payments Received.

OMB Control Number: 1545–2261.

Type of Review: Extension without change of a currently approved collection.

Description: The IRS is charged with collecting revenue legally owed to the federal government. One important category of income comes in the form of tips. Previous empirical research has shown income from tips to be significantly underreported, limiting the IRS's ability to collect the proper amount of tax revenue. The IRS believes a new study of consumer tipping practices is needed in order to better understand current tip reporting behavior so tax administrators and policy makers can make the tax system fairer and more efficient. The main goal for this survey effort is to generate statistically valid estimates of tipped income in a variety of services for which no such estimates exist, in addition to providing information on other correlates of tipped income and behavior including, but not limited to, regional or seasonal fluctuations in tipped income.

Form: Tipping Survey.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 60,000.

Frequency of Response: Once.

Estimated Total Number of Annual Responses: 60,000.

Estimated Time per Response: .19 hours.

Estimated Total Annual Burden Hours: 11,144.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: September 20, 2019.

Jennifer P. Quintana,

Treasury PRA Clearance Officer.

[FR Doc. 2019–20877 Filed 9–25–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; FHA New Account Request, Transition Request, and Transfer Request

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before October 28, 2019 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the 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 Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8100, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Bureau of the Fiscal Service (BFS)

Title: FHA New Account Request, Transition Request, and Transfer Request.

OMB Control Number: 1530–0054.

Type of Review: Extension without change of a currently approved collection.

Description: The information is used to (1) establish a book-entry account; (2) change information on a book-entry account; and (3) transfer ownership of a book-entry account on the HUD system, maintained by the Federal Reserve Bank of Philadelphia.

Forms: FS Form 5354, FS Form 5366, FS Form 5367.

Affected Public: Individuals and households.

Estimated Number of Respondents: 300.

Frequency of Response: On Occasion.

Estimated Total Number of Annual Responses: 300.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 50.

Authority: 44 U.S.C. 3501 et seq.

Dated: September 20, 2019.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2019–20876 Filed 9–25–19; 8:45 am]

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Part II

Federal Communications Commission

47 CFR Part 1

Assessment and Collection of Regulatory Fees for Fiscal Year 2019; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 19–105; FCC 19–83]

Assessment and Collection of Regulatory Fees for Fiscal Year 2019

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission revises its Schedule of Regulatory Fees to recover an amount of $339,000,000 that Congress has required the Commission to collect for fiscal year 2019. Section 9 of the Communications Act of 1934, as amended, provides for the annual assessment and collection of regulatory fees under sections 9(b)(2) and 9(b)(3), respectively, for annual ''Mandatory Adjustments'' and ''Permitted Amendments'' to the Schedule of Regulatory Fees.

DATES: Effective September 26, 2019. To avoid penalties and interest, regulatory fees should be paid by the due date of September 27, 2019.

FOR FURTHER INFORMATION CONTACT: Roland Helvajian, Office of Managing Director at (202) 418–0444.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* FCC 19–83, MD Docket No. 19–105, adopted on August 15, 2019 and released on August 27, 2019. The full text of this document is available for public inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW, Washington, DC 20554, or by downloading the text from the Commission's website at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0906/FCC-17-111A1.pdf.*

I. Administrative Matters

A. Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980 (RFA),[1] the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to this Report and Order. The FRFA is located towards the end of this document.

B. Final Paperwork Reduction Act of 1995 Analysis

2. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

C. Congressional Review Act

3. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that these rules are non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Report & Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

II. Introduction

4. Each year, the Commission must adopt a new schedule of regulatory fees for regulatory payors, *i.e.,* those entities required to fund the Commission's activities. In this Report and Order, we adopt a schedule to collect the $339,000,000 in congressionally required regulatory fees for fiscal year (FY) 2019.[2] The regulatory fees are due in September 2019. We also adopt several targeted amendments to our rules to conform with the text of the Communications Act of 1934, as amended by the RAY BAUM'S Act.[3] And in the future we will seek comment on several proposals to amend our schedule of regulatory fees for FY 2020.

III. Background

5. The Commission is required by Congress to assess regulatory fees each year in an amount that can reasonably be expected to equal the amount of its appropriation.[4] Regulatory fees recover direct costs, such as salary and expenses; indirect costs, such as overhead functions; and support costs, such as rent, utilities, and equipment.[5] Regulatory fees also cover the costs incurred in regulating entities that are statutorily exempt from paying regulatory fees (*e.g.,* governmental and nonprofit entities, amateur radio operators, and noncommercial radio and television stations)[6] and entities whose regulatory fees are waived.[7]

6. The Commission's methodology for assessing regulatory fees must ''reflect the full-time equivalent number of employees within the bureaus and offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities.''[8] Since 2012, the Commission has assessed the allocation of full-time equivalents (FTE)[9] by first determining the number of FTEs in each ''core'' bureau that carries out licensing activities (*i.e.,* the Wireless Telecommunications Bureau, Media Bureau, Wireline Competition Bureau, and International Bureau) and then attributing all other FTEs to payor categories based on these core FTE allocations.[10]

7. As part of its annual regulatory fee rulemaking process, the Commission seeks comment to improve the regulatory fee methodology and has adopted significant regulatory fee reforms. For example, in 2013, the Commission updated FTE allocations to more accurately reflect the number of FTEs working on regulation and oversight of regulatees in the payor categories.[11] In 2014, the Commission adopted a new regulatory fee subcategory for toll free numbers within

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 847 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

[2] Consolidated Appropriations Act, 2019, Public Law 116–6, Division D—Financial Services and General Government Appropriations Act, 2019, Title V—Independent Agencies (2019) (FY 2019 Appropriation).

[3] The Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018, or the RAY BAUM'S Act of 2018, amended sections 8 and 9 and added section 9A to the Communications Act, effective October 1, 2018. *See* Consolidated Appropriations Act, 2018, Public Law 115–141, 132 Stat. 1084, Division P—RAY BAUM'S Act of 2018, Title I, section 103 (2018); 47 U.S.C. 159, 159A.

[4] 47 U.S.C. 159(a).

[5] *Assessment and Collection of Regulatory Fees for Fiscal Year 2004,* Report and Order, 69 FR 41028 (July 7, 2004), 19 FCC Rcd 11662, 11666, para. 11 (2004) (*FY 2004 Report and Order*).

[6] 47 U.S.C. 159(e).

[7] 47 CFR 1.1166.

[8] 47 U.S.C. 159(d); *see* prior section 9(b) (fees ''derived by determining the full-time equivalent number of employees performing the activities described in subsection (a) within the Private Radio Bureau, Mass Media Bureau, Common Carrier Bureau, and other offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities. . .'')

[9] One FTE, a ''Full Time Equivalent'' or ''Full Time Employee,'' is a unit of measure equal to the work performed annually by a full time person (working a 40-hour workweek for a full year) assigned to the particular job, and subject to agency personnel staffing limitations established by the U.S. Office of Management and Budget.

[10] *Procedures for Assessment and Collection of Regulatory Fees,* Notice of Proposed Rulemaking, 77 FR 29275 (May 17, 2012), 27 FCC Rcd 8458, 8460, para. 5 & n.5 (2012) (*FY 2012 NPRM*).

[11] *Assessment and Collection of Regulatory Fees for Fiscal Year 2013,* Report and Order, 78 FR 52433 (Aug. 23, 2013), 28 FCC Rcd 12351, 12354–58, paras. 10–20 (2013) (*FY 2013 Report and Order*).

the Interstate Telecommunications Service Provider (ITSP) category.[12] In 2015, the Commission adopted a regulatory fee for Direct Broadcast Satellite (DBS), as a subcategory of the cable television and IPTV fee category,[13] and reallocated four additional International Bureau FTEs from direct to indirect.[14] In 2016, the Commission adjusted regulatory fees for radio and television broadcasters, based on the type and class of service and on the population served.[15] In 2017, the Commission reallocated as indirect 38 FTEs in the Wireline Competition Bureau assigned to work on non-high cost programs of the Universal Service Fund.[16] The Commission also reallocated for regulatory fee purposes four FTEs assigned to work on numbering issues from the Wireline Competition Bureau to the Wireless Telecommunications Bureau [17] and added non-common carrier terrestrial international bearer circuits (IBCs) as payors.[18] In 2018, the Commission adopted new tiers for submarine cable regulatory fees,[19] a new methodology for calculating full power broadcast television regulatory fees,[20] and amended the rules regarding the collection of delinquent debt.[21]

8. In 2018, as part of the RAY BAUM'S Act, Congress revised the Commission's regulatory fee authority by modifying section 9 and adding section 9A to the Communications Act.[22] In the *FY 2019 NPRM,* we sought comment on the RAY BAUM'S Act's modifications to the Commission's regulatory fee authority.[23] We also sought comment on (1) proposals to allocate fees to payor categories and to allocate FTEs consistent with the same methodology used in FY 2018; [24] (2) a proposal to continue phasing in the DBS regulatory fee; [25] (3) proposed fees to implement the methodology adopted in FY 2018 for full service broadcast television regulatory fees; [26] and (4) a proposal to continue to base terrestrial and satellite IBC regulatory fees on a per Gbps methodology.[27] Additionally, we sought comment on whether to adopt a section 9(e)(2) de minimis exemption of $1,000 for annual regulatory fee payors; [28] and on other regulatory fee reforms more generally.[29] We received 15 comments and eight reply comments on the *FY 2019 NPRM.*[30]

IV. Report and Order

9. Pursuant to section 9 of the Communications Act, in this *FY 2019 Report and Order,* we adopt the regulatory fee schedule proposed in the *FY 2019 NPRM* for FY 2019, as modified herein, to collect $339,000,000 in regulatory fees.[31] We also adopt the regulatory fee categories proposed in the *FY 2019 NPRM.*[32]

A. Assessing and Allocating Fees Under RAY BAUM'S Act

10. In the *FY 2019 NPRM,* the Commission described in some detail the RAY BAUM'S Act modifications to section 9 and the new section 9A and sought comment on how those modifications should be incorporated into our regulatory fee process.[33] Each year the Commission must collect regulatory fees sufficient to equal the amount appropriated by Congress for the Commission's use for such fiscal year (as before). Each year, the Commission must assess regulatory fees that ''reflect the full-time equivalent number of employees within the bureaus and offices of the Commission'' (as before).[34] And each year the Commission's assessed regulatory fees must be ''adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities'' (as before).[35] Accordingly, we find the fee assessment structure dictated by the statute fundamentally remains unchanged. Or in other words, because the new section 9 closely aligns to how the Commission assessed and collected fees under the prior section 9, we will hew closely to our prior methodology in assessing FY 2019 regulatory fees.

11. We reject the arguments of the State Broadcasters that the RAY BAUM'S Act fundamentally changed how the Commission should calculate regulatory fees and that we are no longer required to base regulatory fees on the direct FTEs in core bureaus.[36] Given the Act's requirement that fees must ''reflect'' FTEs before adjusting fees to take into account other factors, we find FTE counts by far the most

[12] *Assessment and Collection of Regulatory Fees for Fiscal Year 2014,* Report and Order and Further Notice of Proposed Rulemaking, 79 FR 54190 (Sept. 11, 2014) and 79 FR 63883 (Oct. 27, 2014), 29 FCC Rcd 10767, 10774–77, paras. 18–21 (2014) (*FY 2014 Report and Order*).

[13] *Assessment and Collection of Regulatory Fees for Fiscal Year 2015,* Report and Order and Further Notice of Proposed Rulemaking, 80 FR 43019 (July 21, 2015) and 80 FR 60825 (Oct. 8, 2015), 30 FCC Rcd 10268, 10276–77, paras. 19–20 (2015) (*FY 2015 Report and Order*).

[14] *FY 2015 Report and Order,* 30 FCC Rcd at 10278, para. 24.

[15] *Assessment and Collection of Regulatory Fees for Fiscal Year 2016,* Report and Order, 81 FR 65926 (Sept. 26, 2016), 31 FCC Rcd 10339, 10350–51, paras. 31–33 (2016) (*FY 2016 Report and Order*).

[16] *Assessment and Collection of Regulatory Fees for Fiscal Year 2017,* Report and Order and Further Notice of Proposed Rulemaking, 82 FR 44322 (Sept. 22, 2017) and 82 FR 50598 (Nov. 1, 2017), 32 FCC Rcd 7057, 7061–7064, paras. 9–15 (2017) (*FY 2017 Report and Order*).

[17] *FY 2017 Report and Order,* 32 FCC Rcd at 7064–65, paras. 16–17.

[18] *FY 2017 Report and Order,* 32 FCC Rcd at 7071–72, paras. 34–35.

[19] *Assessment and Collection of Regulatory Fees for Fiscal Year 2018,* Report and Order and Notice of Proposed Rulemaking, 83 FR 36460 (July 30, 2018), 33 FCC Rcd 5091, 5095, paras. 8–9 (2018) (*FY 2018 NPRM*) (adopting new tiers for submarine cable so that, among other things, the highest tier would be 4,000 Gbps or greater; previously, the highest tier was 20 Gbps or greater).

[20] *Assessment and Collection of Regulatory Fees for Fiscal Year 2018,* Report and Order and Order, 83 FR 47079 (Sept. 18, 2018), 33 FCC Rcd 8497, 8501–8502, paras. 13–15 (2018) (*FY 2018 Report and Order*).

[21] *FY 2018 Report and Order,* 33 FCC Rcd at 8502–8503, paras. 16–17.

[22] Consolidated Appropriations Act, 2018, Division P—RAY BAUM'S Act of 2018, Title I, FCC Reauthorization, Public Law 115–141, section 102, 132 Stat. 348, 1082–86 (2018) (codified at 47 U.S.C. 159, 159A). Congress provided an effective date of October 1, 2018 for such changes.

[23] *Assessment and Collection of Regulatory Fees for Fiscal Year 2019,* Notice of Proposed Rulemaking, 83 FR 26234 (June 5, 2019), 34 FCC Rcd 3272, 3275–77, paras. 6–10 (2019) (*FY 2019 NPRM*).

[24] *FY 2019 NPRM,* 34 FCC Rcd at 3277–79, paras. 11–15.

[25] *Id.,* 34 FCC Rcd at 3279–3280, paras. 16–19.

[26] *Id.,* 34 FCC Rcd at 3280–81, paras. 20–21.

[27] *Id.,* 34 FCC Rcd at 3281–82, paras. 22–25.

[28] *Id.,* 34 FCC Rcd 3282–84, paras. 26–30.

[29] *Id.,* 34 FCC Rcd 3284, para. 31.

[30] Commenters to the *FY 2019 NPRM* are listed in Table 1.

[31] FY 2019 regulatory fees are listed in Appendices C and J of the FY 2019 *Report and Order.* New small satellite regulatory fees are not adopted here because there are no fees that would be due for FY 2019. *See Streamlining Licensing Procedures for Small Satellites,* Report and Order, FCC 19–81, paras. 104–106 (released August 2, 2019) (noting that the earliest such fees would be due would be for FY 2021).

[32] *FY 2019 NPRM,* 34 FCC Rcd at 3279, para. 15 & Appendix F.

[33] Specifically, (i) three bureaus listed in the prior version of section 9 that have since been renamed are not listed in the new section 9; (ii) the prior statute included examples of factors relevant to the Commission's inquiry into benefits provided the payor of the fee, to wit, ''service area coverage, shared use versus exclusive use, and other factors that the Commission determines are necessary in the public interest,'' that are not in the new section 9, *see* prior section 9(b)(1)(A); (iii) the current version of section 9 requires the Commission to consider increases and decreases in the ''number of units'' subject to payment of regulatory fees, but does not state ''licensees,'' *compare* prior section 9(b)(2) *with* new section 9(c)(1)(A); (iv) the new section 9 does not explicitly permit the Commission to consider ''additions, deletions, or changes in the nature of its services as a consequence of Commission rulemaking proceedings or changes in law,'' *see* prior section 9(b)(3); and (v) the old version of the statute described the annual changes as either mandatory amendments, *see* prior section 9(b)(2), or permitted amendments, *see* prior section 9(b)(3); under the RAY BAUM'S Act, such changes are described as adjustments, *see* new section 9(c), or amendments, *see* new section 9(d).

[34] 47 U.S.C. 159(d).

[35] *Id.*

[36] State Broadcasters Comments at 17.

administrable starting point for regulatory fee allocations.

12. Specifically, we will continue to apportion regulatory fees across fee categories based on the number of direct FTEs in each core bureau and the proportionate number of indirect FTEs and to take into account factors that are reasonably related to the payor's benefits. The first step in the fee recovery structure we adopt in this Report and Order is to allocate appropriated amounts to be recovered proportionally based on the number of direct FTEs within each core bureau (with indirect FTEs allocated in proportion to the direct FTEs). Those proportions are then subdivided within each core bureau into fee categories among the regulatees served by the core bureau.[37] Finally, within each fee category, the amount to be collected is divided by a unit that allocates the regulatee's proportionate share based on an objective measure.[38]

13. To apply our methodology, the Commission in the *FY 2019 NPRM* proposed that non-auctions funded FTEs will be classified as ''direct'' only if in one of the four core bureaus—the Wireline Competition Bureau, the Wireless Telecommunications Bureau, the Media Bureau, and the International Bureau. The indirect FTEs are non-auctions funded employees from the following bureaus and offices: Enforcement Bureau, Consumer & Governmental Affairs Bureau, Public Safety and Homeland Security Bureau, Chairman and Commissioners' offices, Office of the Managing Director, Office of General Counsel, Office of the Inspector General, Office of Communications Business Opportunities, Office of Engineering and Technology, Office of Legislative Affairs, Office of Workplace Diversity, Office of Media Relations, Office of Economics and Analytics, and Office of Administrative Law Judges, along with some FTEs in the Wireline Competition Bureau and the International Bureau that the Commission has previously classified as indirect.[39] We maintain these classifications, consistent with prior practice.

14. In recognition that the Commission took two actions during FY 2019 that significantly impacted the numbers of FTEs in the core bureaus, the Commission next proposed to base the FY 2019 FTE allocations on the relative time that FTEs remained in core bureaus. Specifically, the Commission reassigned staff to the Office of Economics and Analytics, effective December 11, 2018, resulting in the reassignment of 95 FTEs (of which 64 were not auctions-funded) as indirect FTEs.[40] This reassignment resulted in a reduction in direct FTEs in the Wireline Competition Bureau, Wireless Telecommunications Bureau, and Media Bureau. And the Commission reassigned Equal Employment Opportunity enforcement staff from the Media Bureau to the Enforcement Bureau, effective March 15, 2019, resulting in a reduction of 7 direct FTEs in the Media Bureau.[41] On net, these changes resulted in the Wireless Telecommunications Bureau going from 89 FTEs to 80.5 FTEs, the Wireline Competition Bureau going from 123 FTEs to 100.8 FTEs, and the Media Bureau going from 131 FTEs to 115.1 FTEs. We adopt this method of addressing these reassignments as proposed.

15. In sum, there were 320.4 direct FTEs for FY 2019, distributed among the core bureaus as follows International Bureau (24), Wireless Telecommunications Bureau (80.5), Wireline Competition Bureau (100.8), and the Media Bureau (115.1). This results in 7.49% of the FTE allocation for International Bureau regulatees; 25.12% of the FTE allocation for Wireless Telecommunications Bureau regulatees; 31.46% of the FTE allocation for Wireline Competition Bureau regulatees; and 35.93% of FTE allocation for Media Bureau regulatees. There were in turn 936 indirect FTEs spread across the Commission: Enforcement Bureau (190), Consumer & Governmental Affairs Bureau (110), Public Safety and Homeland Security Bureau (90), part of the International Bureau (60), part of the Wireline Competition Bureau (38), Chairman and Commissioners' offices (20), Office of the Managing Director (138), Office of General Counsel (71), Office of the Inspector General (45), Office of Communications Business Opportunities (10), Office of Engineering and Technology (72), Office of Legislative Affairs (8), Office of Workforce Diversity (4), Office of Media Relations (13), Office of Economics and Analytics (64), and Office of Administrative Law Judges (3).[42] Allocating these indirect FTEs based on the direct FTE allocations yields an additional 70.1 FTEs attributable to International Bureau regulatees, 235.1 FTEs attributable to Wireless Telecommunications Bureau regulatees, 294.5 FTEs attributable to Wireline Competition Bureau regulatees, and 336.3 FTEs attributable to Media Bureau regulatees.

16. Based on these allocations and the requirement to collect $339,000,000 in regulatory fees this year, we project collecting approximately $25.39 million (7.49%) in fees from International Bureau regulatees; $85.15 million (25.12%) in fees from Wireless Telecommunications Bureau regulatees; $106.64 million (31.46%) from Wireline Competition Bureau regulatees; and $121.82 million (35.93%) from Media Bureau regulatees. We set specific regulatory fees in Table 3 so that regulatees within a fee category pay their proportionate share based on an objective measure (*e.g.,* revenues or number of subscribers).

17. We reject the arguments of the State Broadcasters and NAB who ask us to overturn this long-running framework for allocating regulatory fees—and specifically our allocation of indirect FTEs in proportion to direct FTEs.[43] *For one,* we must allocate indirect FTEs among regulatees somehow (per Congress's direction), and relying on the allocation of direct FTEs gives us an objective, easily administrable measure to do just that. Neither NAB nor the State Broadcasters identify an objective, easily administrable alternative. *For another,* we have long relied on direct FTE allocations because the Commission has found those allocations best reflect the ''benefits provided to the payor of the fee by the Commission's

[37] For example, within the International Bureau, the FTEs that work on space stations and earth stations in the Satellite Division are separate from the FTEs that work on submarine cable systems and terrestrial and satellite IBCs in the Policy Division.

[38] For example, earth station fees are calculated per earth station and terrestrial and satellite IBCs fees are calculated per Gbps circuit, each such earth station and per Gbps circuit constituting a unit. *See FY 2012 NPRM,* 27 FCC Rcd at 8461–62, paras. 8–11.

[39] In 2013, the Commission allocated all FTEs except for 28 in the International Bureau as indirect. *FY 2013 Report and Order,* 28 FCC Rcd at 12355–356, para. 14. Subsequently, the Commission allocated an additional four FTEs, the number of FTEs working on market access requests for non-U.S.-licensed space stations, as indirect, leaving a total of 24 direct FTEs in that bureau. *FY 2015 Report and Order,* 30 FCC Rcd at 10278, para. 24. In 2017, the Commission allocated 38 FTEs in the Wireline Competition Bureau who work on non-high cost programs of the Universal Service Fund as indirect. *FY 2017 Report and Order,* 32 FCC Rcd at 7061–64, paras. 10–15.

[40] *See Establishment of the Office of Economics and Analytics,* Order, 33 FCC Rcd 1539 (2018); FCC Opens Office of Economics And Analytics, Federal Communications Commission News Release, December 11, 2018, *https://www.fcc.gov/document/fcc-opens-office-economics-and-analytics.*

[41] *See Transfer of EEO Audit and Enforcement Responsibilities to Enforcement Bureau,* Public Notice, 34 FCC Rcd 1370 (EB 2019).

[42] The FTE numbers allocated to the core bureaus for FY 2019 are weighted for the changes throughout the year. For the sake of simplicity, these numbers are the final indirect FTE counts as they do not directly impact regulatory fee allocations.

[43] State Broadcasters Comments at 8–9; NAB Reply Comments at 4, 7.

activities'' [44]—in the case of broadcast licensees, the work the Media Bureau does to grant licenses and oversee and regulate their operations. Again, neither NAB nor the State Broadcasters explain how to allocate indirect FTE in a way that better reflects the ''benefits provided to the payor.''

18. We also reject the arguments of the Satellite Operators, who assert that the International Bureau's direct FTE count is unfairly high in proportion to the direct FTE count in the other core bureaus, owing to the staff reassignments from other bureaus to indirect FTE status.[45] To the extent these commenters are arguing that we should not reallocate direct FTEs at all as a result of reassignment, we disagree—the Satellite Operators offer no reasons why we should treat these reassigned FTEs any differently from other direct FTE changes as a result of shifting Commission needs and priorities. Further, the Satellite Operators' complaints that FTEs within other core bureaus should not be treated as indirect [46] ring hollow—with 60 indirect FTEs at stake (and a 20.2% FTE allocation were we to treat all core bureau FTEs as direct), International Bureau regulatees are by far the greatest beneficiaries of our past decisions to take a more granular look at direct FTEs within the core bureaus.

19. We recognize that the increase in allocation for International Bureau regulatees—from 6.25% to 7.49%—is non-trivial, but we disagree with the Satellite Operators that we should arbitrarily shift these fees onto other regulatees and keep satellite regulatory fees proportional to changes in our appropriations.[47] Regulatory fees are a zero-sum situation, so any decrease to the fees paid by one category of regulatees necessitates an increase in fees for others, which is precisely why the Commission hews so closely to the statutory command to start with FTE counts and then potentially adjust fees to reflect other factors related to the payor's benefits. Because the International Bureau has a relatively small number of direct FTEs, the increase in its percentage of the whole resulted in a non-trivial increase in fees for International Bureau regulatees. We recognize that this increase is significant; however, it is consistent with the results when FTE counts have previously shifted as a result of the regulatory fee structure.[48]

20. For similar reasons, we reject the claims of INCOMPAS and NASCA that the proposed increase in the regulatory fees for submarine cable in FY 2019 is unreasonable because the Commission failed to demonstrate an increase in ''the benefits provided'' to submarine cable licensees, as compared to other licensees.[49] The Commission has never followed that standard nor could it since we do not control many of the factors we must account for in setting fees, such as the total annual amount to be collected or the number of payment units in a category. What is more, such a requirement would preclude the Commission from ever reassessing its allocation of direct FTEs (and honing our allocation processes), a stance that neither INCOMPAS nor NASCA attempt to square with the statute.

21. We understand the requests of several commenters that the Commission offer even more granular information about work assignments and FTE allocations within and among bureaus for analysis.[50] But we do not base regulatory fees on a precise allocation of specific employees with certain work assignments each year and instead must take a higher-level approach for several reasons. *First,* the statute is driven by the number of FTEs, not by the workload of individual employees.[51] *Second,* as the Commission explained in the *FY 2015 Report and Order* when this issue was raised previously, FTEs work on a wide range of issues and it is difficult to attribute their work to a specific category.[52] Moreover, the wide variety of issues handled in non-core bureaus may also include services that are not specifically correlated with one core bureau, let alone one category of regulatees.[53] *Third,* most Commission attorneys, engineers, analysts, and other staff work on a variety of issues even during a single fiscal year. A snapshot of staff assignments in a single division in any bureau, for example, may misrepresent the work being done six months or even six weeks later. Thus, even if we could calculate staff assignments at this granular level with accuracy, such assignments would not be accurate for the entire fiscal year and would result in significant unplanned shifts in regulatory fees as assignments change over time. And *fourth,* much of the work that could be assigned to a single category of regulatees is likely to be interspersed with the work that our staff does on behalf of many entities that do not pay regulatory fees, *e.g.,* governmental entities, non-profit organizations, and very small regulatees that have an exemption.[54] That is why we take a higher-level approach and consider the work of a larger group such as a division or office or bureau, consistent with the high-level language of the Act that ''fees reflect the full-time equivalent number of employees within the bureaus and offices of the Commission . . . .'' [55]

22. Thus, we reject the proposal of the State Broadcasters to treat non-feeable Media Bureau regulatees differently from non-feeable regulatees in other bureaus, as an indirect cost.[56] Media Bureau regulatory fee payers are not alone in having to pay for exempt licensees; there are exempt licensees in most of the fee categories. For example, over 150 ITSPs are cooperatives and government entities and do not pay regulatory fees. ITSP licensees who pay regulatory fees are responsible for the costs for these exempt licensees and all

[44] 47 U.S.C. 159(d).

[45] Satellite Operators Comments at 1–4; SIA Reply Comments at 1–2; Intelsat/SES Reply Comments at 1–2.

[46] *FY 2013 Report and Order,* 28 FCC Rcd at 12355–56, para. 14.

[47] Satellite Operators Comments at 2. *See also* Letter from Karis A. Hastings, Counsel, SatCom Law LLC, to Marlene H. Dortch, Secretary, FCC, MD Docket No. 19–105, Attachment, at 2 (filed Aug. 8, 2019) (SatCom August 8 *Ex Parte* Letter) (arguing that the ''Commission should freeze GSO fees at FY2018 levels'' pending a review and ''necessary analysis to reset the allocations among satellite service categories for future years''); Letter from Jennifer A. Manner, Senior Vice President, EchoStar Satellite Operating Corporation and Hughes Network Systems, LLC, to Marlene H. Dortch, Secretary, FCC, MD Docket No. 19–105, Attachment, at 1 (filed August 8, 2019) (EchoStar August 8 *Ex Parte* Letter) (arguing that ''the FCC should freeze GSO regulatory fees at the 2018 level, or phase in any GSO fee increase''). While we do not have sufficient record information in this proceeding to consider changes to the apportionment of regulatory fees among International Bureau regulatees, we will seek comment on this issue for future years in future rulemaking.

[48] For example, in the *FY 2013 Report and Order,* the Commission concluded that most of the FTEs in the International Bureau should be indirect, with the exception of 27 FTEs in the Policy and Satellite Divisions and one FTE from the Office of the Bureau Chief, a total of 28 direct FTEs. *FY 2013 Report and Order,* 28 FCC Rcd at 12355–56, para. 14.

[49] INCOMPAS Comments at 3; NASCA Reply Comments at 3; *see also* Letter from Yaron Dori, Counsel, INCOMPAS, to Marlene H. Dortch, Secretary, FCC, MD Docket No. 19–105, at 1 (filed July 24, 2019) (INCOMPAS July 24 *Ex Parte* Letter).

[50] State Broadcasters Comments at 10; NAB Comments at 6.

[51] 47 U.S.C. 159(d).

[52] *FY 2015 Report and Order,* 30 FCC Rcd at 10275, para. 17.

[53] *FY 2015 Report and Order,* 30 FCC Rcd at 10275, para. 17.

[54] *See, e.g.,* 47 U.S.C. 159(e).

[55] 47 U.S.C. 159(d). For example, in FY 2019, Media Bureau FTEs constitute 35.93% of all direct Media Bureau FTEs, and 16.17% of the 35.93% represent FTEs associated with radio and television issues. The 16.17% of direct Media Bureau FTEs can be further broken down to 8.82% radio (of the 8.82%, 6.08% represent FM radio and 2.74% represent AM radio) and 7.35% television. FTEs working on cable television and DBS issues comprise 19.76% of the 35.93% of direct FTEs working on Media Bureau issues.

[56] State Broadcasters Comments at 13.

ITSPs benefit from the regulation and oversight of the Wireline Competition Bureau. Similarly, many earth stations in the international services fee category are exempt and their costs are covered by non-exempt earth station licensees. Further, it would be unduly complex to redirect the costs attributable to fee exempt entities as indirect for each fee category and recalculate the regulatory fees with a larger group of indirect FTEs. Accordingly, we find it is consistent with the Act to include those costs that are attributable to the fee paying and exempt regulatees in the revenue requirement because all of the regulatees in that fee category, whether they pay regulatory fees or not, benefit from the oversight and regulation of that bureau.

23. We also reject the arguments of International Bureau regulatees to shift the allocation of fees (and FTEs) within the International Bureau. The International Bureau FTE calculation is unique in that it reflects decisions that the Commission has previously made to account for the fact that much of the work done in the bureau benefits fee payors across the core bureaus. Together, the International Bureau's Satellite Division, Telecommunications and Analysis Division, and Office of the Bureau Chief have more than 24 FTEs, but much of their staff has been determined to be indirect. Currently, we allocate 17.1 direct FTEs to the satellite category and 6.9 direct FTEs to the international bearer circuit (IBC) category. And since 2009, we have allocated regulatory fees between submarine cable and satellite and terrestrial IBCs based on a plan developed by the IBC industry, with 87.6% of IBC fees paid by submarine cable and 12.4% by satellite/terrestrial facilities.[57] We find that these allocations still represent a reasonable division that reflects the direct FTE work for the benefit of these fee payors.

24. We reject the argument of CenturyLink that we should cut the fees paid by satellite and terrestrial IBCs by 86% to reflect CenturyLink's calculation of the relative capacity of IBCs vis-à-vis submarine cable networks[58] and that we should further allocate more fee recovery to satellite IBCs than terrestrial IBC providers, claiming without specifics that satellite providers of IBCs benefit more than terrestrial providers from the Commission's activities.[59] We also reject NASCA's counter argument that we should allocate a smaller portion of fees to submarine cables because of the limited Commission activities—licensing and transaction reviews—that benefit the submarine cable payors and because other fee categories account for a much higher proportion of the FTE's activities in the International Bureau.[60] Intelsat and SES assert that any revision of the International Bureau intra-bureau allocations should not be done piecemeal and instead requires a wholesale examination of all International Bureau FTE activities.[61] As they and other International Bureau regulatees point out, any shifting of intra-bureau allocations necessarily means higher fees for other regulatees.[62] And without significant study and analysis over time and a sufficient record that the benefits of doing such reallocations would yield measurably more accurate results (or a clear path to reallocation given the competing proposals in the record), we maintain the current allocation of regulatory fees between the submarine cable and satellite and terrestrial IBCs with 87.6% paid by submarine cable and 12.4% paid by satellite/terrestrial facilities and instead will seek comment on the issue in furture rulemaking.[63]

B. Video Distribution Provider Regulatory Fees

25. Among other activities, the Media Bureau oversees the regulation of video distribution providers like multichannel video programming distributors (MVPDs), *i.e.,* regulated companies that make available for purchase, by subscribers or customers, multiple channels of video programming. The Media Bureau relies on a common pool of FTEs to carry out its oversight of MVPDs and other video distribution providers. These responsibilities include market modifications, local-into-local, must-carry and retransmission consent disputes, program carriage and program access complaints, over-the-air reception device declaratory rulings and waivers, media rule modernization, media ownership, and proposed transactions.[64]

26. For these activities in FY 2019, the Commission must collect $67.02 million in regulatory fees from three categories of providers: Cable TV systems, IPTV providers, and direct broadcast satellite (DBS) operators. Although the Commission decided to assess cable TV systems and IPTV providers the same for regulatory fee purposes—assessing each provider based on its subscribership—the Commission took a different approach when it began to assess Media Bureau-based regulatory fees on DBS operators. Specifically, the Commission decided to phase in the new Media Bureau-based regulatory fee for DBS, starting at 12 cents per subscriber per year.[65] At the same time, the Commission committed to updating the regulatory fee rate in future years ''as necessary for ensuring an appropriate level of regulatory parity and considering the resources dedicated to this new regulatory fee subcategory.''[66] Accordingly, from FY 2016 to FY 2018, the Commission increased the regulatory fee for DBS operators to 24 cents (plus a three cent moving fee) and then 36 cents (plus a two cent moving fee) and then 48 cents per subscriber per year, respectively, with the regulatory fees paid by DBS operators reducing those paid by other MVPDs.[67]

27. For FY 2019, the Commission proposed to continue this transition by increasing the DBS regulatory fee rate to

[57] *Assessment and Collection of Regulatory Fees for Fiscal Year 2009,* Report and Order, 74 FR 40089 (Aug. 11, 2009), 24 FCC Rcd 10301, 10304, para. 8 (2009) (*FY 2009 Report and Order*). Notably, we reduced the total regulatory fee apportionment for submarine cable/terrestrial and satellite bearer circuits by 5% in FY 2014 and 7.5% in FY 2015 but did not do so in prior nor subsequent years. *FY 2014 Report and Order,* 29 FCC Rcd at 10772, para. 11; *FY 2015 Report and Order,* 30 FCC Rcd at 10273, para 12.

[58] CenturyLink Comments at 3–6; CenturyLink Reply Comments at 3–4.

[59] CenturyLink Comments at 5–6.

[60] NASCA Comments at 6, 12; NASCA Reply Comments at 4.

[61] Intelsat/SES Reply Comments at 3–4. We note that despite making this claim, Intelsat and SES also ask for potential revisions to the allocations within the space station and earth station categories. *Id.*

[62] CenturyLink Reply Comments at 2; SIA Reply Comments at 3; Intelsat/SES Reply Comments at 3.

[63] For these reasons, we reject CenturyLink's alternative proposal that the Commission ''take an interim, transitional step to reduce fees substantially but not as much as CenturyLink proposes.'' Letter from Joseph C. Cavender, Vice President and Assistant General Counsel, CenturyLink, to Marlene H. Dortch, Secretary, FCC, MD Docket No. 19–105, at 2 (filed August 7, 2019) (CenturyLink August 7 *Ex Parte* Letter). *See also* Letter from James J.R. Talbot, Assistant Vice President-Senior Legal Counsel, AT&T, to Marlene H. Dortch, Secretary, FCC, at 3 (filed August 5, 2019) (AT&T August 5 *Ex Parte* Letter) (explaining that ''[d]ue to the zero-sum nature of the regulatory fee process, under which any changes in the fees for one Bureau automatically affect the fees to be recovered from other Bureau services, any consideration of proposals to reallocate the Bureau fees relating to submarine cables and international bearer circuits should require a comprehensive review'').

[64] *FY 2018 Report and Order,* 33 FCC Rcd at 8944–8500, para. 8.

[65] *FY 2015 Report and Order,* 30 FCC Rcd at 10277, para. 20.

[66] *Id.*

[67] *FY 2018 Report and Order,* 33 FCC Rcd at 8500, para. 10; *FY 2017 Report and Order,* 32 FCC Rcd at 7067, para. 20; *FY 2016 Report and Order,* 31 FCC Rcd at 10350, para. 30.

60 cents per subscriber per year, thereby leaving other MVPDs with a regulatory fee of 86 cents per subscriber per year.[68] Although a common pool of FTEs work on MVPD and related issues for DBS operators, IPTV providers, and cable TV systems, which some commenters (again) argue justifies immediate parity in regulatory fees across these providers,[69] we believe it more prudent to adopt our proposal to increase such rates by one cent per subscriber per month, or 12 cents per subscriber per year.

28. AT&T and DISH—the two DBS operators—reiterate several arguments against any increase in DBS regulatory fees that they have raised, and the Commission has rejected, in previous years. For example, AT&T and DISH claim that there is ''no data or analysis that demonstrates DBS providers caused any increase in Media Bureau FTEs over the past year,'' [70] even though last year (and the year before), the Commission held that the DBS regulatory fee is based on the significant number of Media Bureau FTEs that work on MVPD issues that include DBS, ''not a particular number of FTEs focused solely on DBS'' or ''specific recent proceedings.'' [71] The phase in of the regulatory fee is not based on a change in FTEs working on issues that affect the DBS industry, but was the approach adopted to mitigate the impact of a fee increase should we move to immediate parity [72] while continuing ''to bring the DBS fee closer to the cable television/IPTV fee.'' [73]

29. For the same reasons, we reject AT&T and DISH's claim that they should not see an increase because there are more broadcast and cable television proceedings and regulations than DBS proceedings and regulations (not to mention that broadcasters are not even in the same payor category as DBS operators).[74] We also note our agreement with NCTA and ACA that Media Bureau employees dedicate substantially similar amounts of time and resources to the regulation of DBS as they do to cable television and IPTV,[75] indeed that AT&T and DISH have apparently submitted 154 filings in 26 separate Media Bureau dockets during the fiscal year,[76] that AT&T itself has ''argued for parity in the administration of media rules by requesting that the Commission 'ensure that changes made to the cable rules also be made in the DBS rules, as they are identical,' '' [77] and that in their accounting of Media Bureau activities, AT&T and DISH omitted transaction reviews, even though transactions raise significant regulatory issues for all MVPDs, including DBS.[78] We reiterate again that even differently regulated services can warrant placement in the same payor category if they are overseen by a common pool of FTEs; for example, the ITSP category includes a range of carriers that are not regulated similarly.[79] Cable television, IPTV, and DBS all receive oversight and regulation by Media Bureau FTEs working on MVPD issues.[80] For these reasons, we reject these arguments and agree with commenters that the continued participation of DBS operators in Commission proceedings, along with the use of a common pool of FTEs to oversee MVPD matters (including matters related to DBS operators in particular), justifies an increase in the DBS regulatory fee rate.

30. We also note that the amount to be recovered from all video distribution providers has increased as a result of both shifts in FTEs across bureaus and an increase in the Commission's appropriation; as a result, both DBS providers and cable and IPTV providers will see an increase in their fees this year. Thus, the increase to the DBS provider fee is both to account for increased amounts to be recovered through this fee category and to continue with the ongoing phase in.

31. Finally, we reject the claim of AT&T and DISH that the Commission should take into account the fee they pay based on the International Bureau FTEs as a basis for reducing their contribution to payment for Media Bureau FTEs.[81] The different bureaus provide different oversight and regulation; thus, we agree with NTCA and ACA that under the Act, the Commission assesses regulatory fees based on the FTEs in the bureau providing regulation and oversight—in this case both the International Bureau and the Media Bureau provide regulation and oversight—and there is no justification to offset the fee.[82]

C. Broadcast Television Stations Regulatory Fees

32. Historically, regulatory fees for full-power television stations were based on the Nielsen Designated Market Area (DMA) groupings 1–10, 11–25, 26–50, 51–100, and remaining markets (DMAs 101–210).[83] Broadcast television satellite stations [84] historically have paid a much lower regulatory fee than standalone, full-service broadcast television stations. In the *FY 2018 NPRM,* we sought comment on whether using the population covered by the station's contours [85] instead of using DMAs would more accurately reflect the actual market served by a full-power broadcast television station for purposes of assessing regulatory fees.[86] In the *FY 2018 Report and Order,* we adopted the proposed methodology using actual population and stated that in order to facilitate the transition to this new fee structure, for FY 2019, we planned to average the historical and newly calculated fees.[87]

33. In the *FY 2019 NPRM,* we proposed to adopt a fee based on an average of the historical DMA methodology and the population covered by a full-power broadcast station's contour for FY 2019, with a

[68] *FY 2019 NPRM,* 34 FCC Rcd at 3280, para. 19.

[69] NCTA and ACA Reply Comments at 3 (''Because DBS providers, like other MVPDs, are subject to the Media Bureau's 'oversight and regulation,' the Commission must require DBS operators to pay the fee it assesses other MVPDs.'').

[70] DBS Providers Comments at 9.

[71] *FY 2018 Report and Order,* 33 FCC Rcd at 8501, para. 11; *FY 2017 Report and Order,* 32 FCC Rcd at 7067–68, paras. 22–23; *see also Assessment and Collection of Regulatory Fees for Fiscal Year 2015,* Notice of Proposed Rulemaking, Report and Order, and Order, 80 FR 37206 (June 30, 2015), 30 FCC Rcd 5354, 5369, para. 33 (2015) (*FY 2015 NPRM*).

[72] *FY 2018 Report and Order,* 33 FCC Rcd at 8500, para. 10.

[73] *FY 2017 Report and Order,* 32 FCC Rcd at 7066–67, para. 20.

[74] DBS Providers Comments at 1–4; *see also* AT&T August 5 *Ex Parte* Letter at 3–4.

[75] NCTA and ACA Comments at 3–4; NCTA and ACA Reply Comments at 4–5.

[76] NTCA and ACA Comments at 5. By way of comparison, Comcast and Charter Communications have made a total of 137 ECFS filings from October 1, 2018 to August 2, 2019 in Media Bureau and other Commission dockets.

[77] NTCA and ACA Comments at 5.

[78] NTCA and ACA Reply Comments at 4–5.

[79] ITSPs, regulated by the Wireline Competition Bureau, include interexchange carriers (IXCs), incumbent local exchange carriers (LECs), toll resellers, Voice over internet Providers (VoIP), and other service providers, all of which involve different degrees of regulatory oversight. *FY 2018 Report and Order,* 32 FCC Rcd at 7068, para. 24.

[80] *FY 2018 Report and Order,* 33 FCC Rcd at 8500, para. 10. The Commission has consistently observed that the Media Bureau FTEs work on the regulation and oversight of MVPDs, that includes DBS, cable television, and IPTV. *See FY 2017 Report and Order,* 32 FCC Rcd at 7065, para 19; *FY 2016 Report and Order,* 31 FCC Rcd at 10350, para. 30.

[81] DBS Providers Comments at 3; AT&T August 5 *Ex Parte* Letter at 4.

[82] NTCA and ACA Comments at 9 & Reply Comments at 5–6.

[83] 47 CFR 76.55(e)(2); *Assessment and Collection of Regulatory Fees for Fiscal Year 2000,* Report and Order, 65 FR 44575 (July 18, 2000),15 FCC Rcd 14478, 14492, para. 34 (2000) (*FY 2000 Report and Order*).

[84] Designated as such pursuant to note 5 to § 73.3555 of the Commission's rules.

[85] The population data for broadcasters' service areas is extracted from the TVStudy database, based on a station's projected noise-limited service contour. 47 CFR 73.622(e).

[86] *FY 2018 NPRM,* 33 FCC Rcd at 5102, para. 28.

[87] *FY 2018 Report and Order,* 33 FCC Rcd at para.14.

factor of .72 of one cent ($.007224).[88] However, several payors with broadcast television satellite stations note an error in the Appendix intended to implement this proposal, best illustrated by examining what happened to satellite station KOBF(TV), a station owned by Hubbard: Rather than averaging the historical fee paid by satellite stations ($1,625 for FY 2019) with the contour-based fee ($1,459), the Appendix averaged the non-satellite fee ($27,150) with the contour-based fee ($1,459).[89] In other words, the Appendix suggested to such licensees that the Commission intended as part of its transition to a new fee structure to increase the fee paid by KOBF(TV) from $1,500 in FY 2018 to $14,304 for one year before decreasing it down to $1,459. We agree with commenters that such an increase would have been unjustified and illogical [90]—and as commenters like Ramar argue, the Appendix did not reflect the Commission's intent as expressed in the text of the *FY 2019 NPRM.*[91] Instead, we adopt the proposal as proposed to *transition* broadcast stations from the historical DMA fee structure (including lower fees for satellite stations) to the contour-based methodology, using an average of the historical and contour-based fees in this transition year.[92]

34. We reject PCPM's assertion that the population served by a broadcast station is unrelated to the benefits received by television stations because, according to PCPM, advertising revenues are based on the DMA where a station is located and not on the service contour.[93] For decades, the Commission has assessed television broadcasters' regulatory fees based on population served,[94] with the Commission shifting just last year from relying on DMAs to service contours for these purposes. To the extent that PCPM seeks reconsideration of that decision, its request is untimely.[95] But more to the point, PCPM does recognize that a broadcast station's income does vary with market size and thus population served—and it seems readily apparent that two broadcasters within a DMA see vastly different benefits if one only covers a remote corner and the other covers the major metropolitan area (and similarly a broadcaster serving a much larger population is also more likely to be in a larger DMA and receive more advertising revenues). As the Commission decided last year, moving to contour-based assessment will allow us to more accurately assess regulatory fees and end the need (that still exists) to decide what stations should count as ''satellite'' stations for purposes of reducing their regulatory fees.[96]

D. AM and FM Radio Broadcaster Regulatory Fees

35. In the *FY 2019 NPRM,* the Commission proposed to revise the table for AM and FM broadcasters to reflect the increased amount to be collected for FY 2019.[97] The proposed fees were an increase from FY 2018 AM and FM broadcaster fees and the increase was a function of an increase to the Commission's appropriation, changes to the FTE allocations across bureaus and a reduction in the number of feeable FM and AM broadcasters (units) since FY 2018.

36. Based on comments of the State Broadcasters that we underestimated the number of feeable licensees,[98] we find that the Commission made a conservative estimate of the number of radio stations in the *FY 2019 NPRM.* We have updated our data by identifying licensed facilities as of October 1, 2018 from the Media Bureau's CDBS system [99] and adjusted for stations that are exempt and de minimis, and the resulting number of stations increased by 553 to 10,011, thereby decreasing the fee rates from what was proposed in the *FY 2019 NPRM.*[100] This change should somewhat mitigate concerns of other commenters that the regulatory fees for radio stations are an unexpected increase for certain stations [101]—a result, among other things, of the increased amount of regulatory fees that the Commission must collect from all regulatees this fiscal year. We remind small stations of the Commission's existing processes to seek a waiver, reduction, or deferral of regulatory fees to mitigate the impact of regulatory fees on operators when paying such fees would cause a hardship.[102]

37. Below is the table we adopt, which has lower regulatory fees than proposed in the *FY 2019 NPRM,* due to the inclusion of updated data:

FY 2019 RADIO STATION REGULATORY FEES

Population served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
<=25,000	$950	$685	$595	$655	$1,000	$1,200

[88] *FY 2019 NPRM,* 34 FCC Rcd at 3281, para 21. The factor of .72 of one cent was derived by taking the revenue amount required from all television fee categories and dividing it by the total population count of all feeable call signs. *Id.* at n.64.

[89] Hubbard Reply Comments at 3. In its analysis, Hubbard used the FY 2018 historical fee for broadcast television satellite stations, which was $1,500. *Id.*

[90] Nexstar Comments at 2–8.

[91] Ramar Comments at 3.

[92] *See* Table 7. For each full-power broadcast television station, Table 7 lists (1) the historical fee (calculated using either the satellite station methodology for stations that have historically paid the satellite station fee or the DMA methodology for stations that have historically paid the DMA-based fee); (2) the contour-based fee (population multiplied by ($.007224); and (3) the resulting regulatory fee for FY 2019 (*i.e.,* the average of the historical fee and contour-based fee).

[93] PMCM Comments at 3, 5.

[94] *FY 2000 Report and Order,* 15 FCC Rcd at 14492, para. 34.

[95] 47 CFR 1.429.

[96] *FY 2019 NPRM,* 34 FCC Rcd at 3281, para. 21.

[97] *FY 2019 NPRM,* 34 FCC Rcd at 3297, Appendix B.

[98] The State Broadcasters contend that the Commission underestimated the number of stations by 17% and that this drop resulted in a dramatic increase in regulatory fees for each station. State Broadcasters Comments at 4, 6. NAB *Ex Parte* at 2; NAB Comments at 2. NAB contends that the Commission did not explain the proposed fee increase. *Id.*

[99] The Media Bureau's Consolidated Database System (CDBS) is a database of all licensed audio and video facilities. This database only flags non-commercial educational facilities as exempt entities, and so the download from this database must be reviewed and the units adjusted downward every year to account for non-profit entities, entities that re-broadcast a signal from exempt entities, and stations that are de minimis, all of which do not pay annual regulatory fees.

[100] The unit data for assessing regulatory fees includes prior year payment data, data downloaded from CDBS as of October 1st of each year, and information that is gathered throughout the year identifying ownership changes and non-profit entities. In addition, the Commission analyzes this data to determine which entities are de minimis based on the owner's TIN (Taxpayer Identification Number) number. Broadcast and video facilities that are non-commercial educational, non-profit, re-broadcast an exempt signal, or de minimis do not pay regulatory fees.

[101] Letter from Larry Walke, Associate General Counsel Legal and Regulatory Affairs, NAB, to Marlene H. Dortch, Secretary, FCC, MD Docket No. 19–105, at 1 (filed May 17, 2019); Letter from Larry Walke, Associate General Counsel Legal and Regulatory Affairs, NAB, to Marlene H. Dortch, Secretary, FCC, MD Docket No. 19–105, at 1 (filed July 30, 2019); NAB Reply Comments at 2–4; Mentor Comments at 2; State Broadcasters Comments at 6–7.

[102] Section 9A(d) permits the Commission to waive, reduce, or defer payment of a regulatory fee and associated interest charges and penalties for good cause. 47 U.S.C. 159A(d); 47 CFR 1.1166. *See infra* paras. 49–53 for a discussion of our standard and the information that should be submitted with the request.

FY 2019 RADIO STATION REGULATORY FEES—Continued

Population served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
25,001–75,000	1,425	1,000	895	985	1,575	1,800
75,001–150,000	2,150	1,550	1,350	1,475	2,375	2,700
150,001–500,000	3,200	2,325	2,000	2,225	3,550	4,050
500,001–1,200,000	4,800	3,475	3,000	3,325	5,325	6,075
1,200,001–3,000,000	7,225	5,200	4,525	4,975	7,975	9,125
3,000,001–6,000,000	10,825	7,800	6,775	7,450	11,950	13,675
>6,000,000	16,225	11,700	10,175	11,200	17,950	20,500

E. International Bearer Circuits

38. The regulatory fees that are currently paid by the submarine cable operators and satellite and terrestrial IBCs cover the work performed by the International Bureau for all international communications services.[103] More specifically, the International Bureau's activities concerning submarine cables and IBCs include maintaining the licensing database [104] and other services such as benchmarks enforcement,[105] coordination with other U.S. government agencies,[106] protection from anticompetitive actions by foreign carriers, foreign ownership rulings (Petitions for Declaratory Rulings), international section 214 authorizations, and bilateral and multilateral negotiations and representation of U.S. interests at international organizations, that are all provided by the International Bureau.[107]

i. Terrestrial and Satellite International Bearer Circuit Regulatory Fees

39. The Commission has historically assessed terrestrial and satellite IBC regulatory fees on a per-unit basis (in which the Commission assesses fees on payors based on the number of units each has directly), rather than on a tiered basis (in which the Commission first categorizes each payor into a ''tier'' based on the number of units it has and then assesses a single fee for each payor in the tier). In FY 2018, the Commission sought comment on adopting a tiered methodology for assessing terrestrial and satellite IBC regulatory fees and stated that it expected to have sufficient information from payors in September 2018 to consider a tiered rate structure for FY 2019.[108]

40. In the *FY 2019 NPRM,* we considered the FY 2018 circuit information for terrestrial and satellite IBCs and explained that using the existing per-Gbps methodology on the 13 payors currently in this fee category would result in fees ranging from approximately $121 to $355,000 per payor. We noted that, in contrast, using a two-tiered system would result in large increases in fees for smaller carriers, increases that do not appear to be ''reasonably related to the benefits provided to the payor of the fee[ ] by the Commission's activities,'' as required by the Act, and that a more reasonable tiering structure would instead require the adoption of at least seven tiers.[109] For the reasons specified in the *FY 2019 NPRM,* we maintain the per Gbps fee for satellite and terrestrial IBCs, which is $121 per Gbps for FY 2019.

41. We reject a seven-tier system, which would not simplify calculations nor provide any benefits over our more direct assessment methodology. Nor do we accept CenturyLink's argument that a two-tiered system that could significantly increase fees for small payors and reduce fees for the largest payors is preferable to the direct assessment of fees based on relative capacity.[110] Although we agree with CenturyLink that a structure where the largest payors pay most of the fees and the smallest payors pay a smaller fee is equitable,[111] CenturyLink does not explain why a 12,900% increase in fees for the smallest payor in a two-tier system is ''equitable'' nor why the very largest payor should be able to redistribute its existing regulatory fees to its smaller competitors. Nor do we agree with CenturyLink's bare assertions that a two-tiered approach would improve incentives to deploy services or reduce the likelihood that the Commission would over-collect fees.[112] Instead, we find that maintaining the predictability of our existing fee calculations is more likely to improve incentives for deployment and avoid the creation of a fee ''cliff,'' which could encourage payors to reduce service levels to just below the delimiter in a two-tiered approach, deterring additional deployment by payors (and hence competition among payors).

ii. Submarine Cable System Regulatory Fees

42. *In the Submarine Cable Order,* the Commission decided to assess regulatory fees on submarine cable systems based on a tiered framework: Operational submarine cable systems are first defined as ''large'' submarine cable systems and ''small'' submarine cable systems based on the capacity of each system and the ''small'' systems are further subdivided into additional subcategories.[113] The Commission noted that the methodology would be easy to administer and for submarine cable

[103] *FY 2017 Report and Order,* 32 FCC Rcd at 7070–71, para. 31.

[104] The International Bureau reviews, processes, analyzes, and grants applications for submarine cable landing licenses, transfers, assignments, and modifications. The bureau also coordinates processing of submarine cable landing license applications with the relevant Executive Branch agencies.

[105] *See, e.g., International Settlement Rates,* IB Docket No. 96–261, Report and Order, 12 FCC Rcd 19806 (1997) (*Benchmarks Order*); Report and Order on Reconsideration and Order Lifting Stay, 14 FCC Rcd 9256 (1999) (*Benchmarks Reconsideration Order*); *aff'd sub nom. Cable & Wireless,* 166 F.3d 1224.

[106] For example, the International Bureau coordinates with the Executive Branch agencies regarding national security, law enforcement, foreign policy and trade policy issues related to international services. *See Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities,* IB Docket Nos. 97–142 and 95–22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891 (1997) (*Foreign Participation Order*), reconsideration denied, 15 FCC Rcd 18158 (2000).

[107] *FY 2017 Report and Order,* 32 FCC Rcd at 7070–71, para 31.

[108] *FY 2018 NPRM,* 33 FCC Rcd at 5100–5101, paras. 22–26.

[109] *FY 2019 NPRM* at paras 22–23.

[110] CenturyLink Comments at 8. *See also* AT&T August 5 *Ex Parte* Letter at 2 (agreeing that a two-tier system would require a substantial fee increase for smaller providers of IBCs; that a seven-tier system that would be required to avoid large fee increases for smaller providers would be unduly complex; and that the per-Gbps fee for IBCs therefore should continue).

[111] CenturyLink Comments at 8.

[112] CenturyLink Comments at 6.

[113] *Assessment and Collection of Regulatory Fees for Fiscal Year 2008,* 74 FR 22104 (May 12, 2009), 24 FCC Rcd 4208, 4214, para. 15, (2009) (*Submarine Cable Order*). The Commission stated it would be based on the capacity of each system used for the Commission's annual Circuit Status report. *Id.* n. 38.

operators to comply with because submarine cable operators will no longer pay regulatory fees based on how many active circuits they had on the previous December 31; instead they will pay a capacity-based flat fee [114] per cable landing license.[115]

43. In the *FY 2019 NPRM,* we proposed to maintain this framework for submarine cable systems, as updated in FY 2018, which we have found to be administrable.[116] That is, from FY 2009 to FY 2017, the lowest submarine cable tier was ''less than 2.5 Gbps,'' and the highest tier was ''20 Gbps or greater.'' In FY 2018, of the 42 submarine cable providers that the Commission identified, 40 cable systems were at or above 20 Gbps, and only two were less than 20 Gbps. A 20 Gbps capacity cable system would therefore pay the same regulatory fee as a cable system with over 78,000 Gbps capacity. Accordingly, in 2018 the Commission updated the five submarine cable tiers to less than 50 Gbps, from 50 to 250 Gbps, from 250 to 1,000 Gbps, from 1000 to 4000 Gbps, and 4,000 Gbps and above to accommodate the wide range of capacities, ranging from as little as 1.2 Gbps to over 78,000 Gbps capacity.[117] The Commission adopted these updated submarine cable tiers to provide a more equitable distribution of fees so that a small submarine cable system does not pay the same regulatory fee as a very large submarine cable system that is capable of providing substantially more services. Accordingly, in the *FY 2019 NPRM* we proposed to use the updated tiers [118] and adopt them here.

44. We also clarify at the request of several commenters that ''capacity'' for regulatory fee purposes continues to be ''lit capacity.'' [119] We base the regulatory fee recovery on lit capacity because that is the amount of capacity that submarine cable operators are able to provide services over and the regulatory fee is in part recovering the costs related to the regulation and oversight of such services.

45. We reject several arguments designed to decrease the regulatory fees paid by the largest submarine cable operators. *First,* INCOMPAS argues that we should increase application fees for submarine cable license applications instead of increasing regulatory fees.[120] But by law, application fees and regulatory fees are not interchangeable. Application fees do not offset the Commission's annual appropriations, and the Commission is required to collect the total appropriation for that fiscal year through regulatory fees regardless of the application fees collected.[121] *Second,* INCOMPAS complains that our fee structure will lead to overcollection of $800,000 if just four of the pending applications for new submarine cable landing licenses are granted.[122] But this argument ignores how fees are calculated annually—with fees decreasing in future years if more landing licenses are granted in future years.

46. *Third,* INCOMPAS asserts that the current regulatory fee methodology is ''inequitable and unreasonable'' because of the higher burden on larger capacity cable systems when there is ''little or no connection between the capacity'' and the costs to the Commission or benefits provided to the licensee,[123] arguing instead for a flat-fee per landing license.[124] NASCA in turn claims that the Commission's updated tiers for submarine cable ''backtrack from the purpose behind the 2009 methodology'' and give cable operators an incentive to under report capacity.[125] But these arguments ignore a fundamental premise in how the Commission has long assessed regulatory fees—larger licensees receive greater benefits from the license and hence should (and are able to) pay a larger proportion of the costs. That is as true in the context of submarine cables as it is where wireless providers, ITSPs, and broadcasters are concerned. What is more, submarine cable systems currently vary in capacity from 1.2 Gbps to 78,000 Gbps, although systems that will be operational in the near future will have much larger capacity. While there may be situations in which it would be equitable to set aside differences in capacity for the sake of administrability, to say that a system with roughly 65,000 times the capacity of another system should pay not a penny more in regulatory fees hardly seems equitable or reflective of the benefits each system owner receives from its Commission license and Commission oversight.

47. We further disagree with commenters' assertions that in adopting the Consensus Proposal, the Commission adopted a system that was intended to move towards a flat fee based on the number of landing licenses.[126] In the *Submarine Cable Order,* the Commission explained that under the Consensus Proposal the operational submarine cable systems will first be defined as ''large'' submarine cable systems and ''small'' submarine cable systems based on the capacity of each system used for the Commission's annual Circuit Status report and the ''small'' systems will be further subdivided into subcategories and may move into a different categories as they get larger.[127] We find that adopting a single regulatory fee for all submarine cable systems regardless of capacity would be contrary to the Consensus Proposal (as it is documented and adopted in the *Submarine Cable Order*) and would result in an unreasonable fee increase for the smaller systems.[128]

48. Finally, we are not convinced that now—shortly before the introduction of

[114] The Commission explained: ''[b]y 'flat' we mean that the regulatory fee is no longer based on the number of active circuits but is assessed on a per cable system basis. . . . [W]e are permitting carriers to pay a lower fee for smaller submarine cable systems.'' *Submarine Cable Order,* 24 FCC Rcd at 4210, para. 2 & n.12.

[115] *Submarine Cable Order,* 24 FCC Rcd at 4213, para. 10. The Commission noted at the time that the submarine cable operators would still need to advise the Commission of the number of circuits or certify to the category that they fit into, but this should be a relatively small burden, and is supported by the members of the consensus group who themselves would qualify as small system service providers. *Id.*

[116] *FY 2019 NPRM* at Appendix B.

[117] *FY 2018 Report and Order,* 33 FCC Rcd at 8516, Appendix C.

[118] *FY 2019 NPRM* at Appendix B.

[119] The Commission changed the reporting requirements for submarine cables in 2017 and now requires submarine cable operators to report design capacity, a combination of lit and unlit capacity. *See Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations,* Report and Order, 32 FCC Rcd 8115 (2017); *International Bureau Releases Revised Filing Manual for Section 43.82 Circuit Capacity Reports,* Public Notice, 33 FCC Rcd 12517, 12518 (IB 2018). Commenters expressed concern that changes to the International Bureau's section 43.82 filing manual changed the definition of capacity for regulatory fee purposes to design capacity, contrary to the historical use of available capacity. NASCA Comments at 15–18.

[120] INCOMPAS Comments at 4. NASCA also argues that the Commission activities for the submarine cable industry should be covered by application fees. NASCA Comments at 7. Intelsat explains that the application fees do not reduce regulatory fees but go directly to the U.S. Treasury. Intelsat/SES Reply Comments at 3 & n. 6.

[121] 47 U.S.C. 159(a).

[122] INCOMPAS Comments at 8.

[123] INCOMPAS Comments at 5–6.

[124] INCOMPAS Comments at 9; NASCA Reply Comments at 5; INCOMPAS July 24 *Ex Parte* Letter at 1.

[125] NASCA Comments at 14–15.

[126] NASCA Comments at 14–15; Letter from Susannah Larson, Harris, Wiltshire & Grannis LLP, Counsel for Southeast Asia-US, to Marlene H. Dortch, Secretary, FCC, MD Docket No. 19–105, at 3 (filed May 1, 2019) (SEA–US May 1 *Ex Parte* Letter).

[127] *Submarine Cable Order,* 24 FCC Rcd at 4214, para. 15. The Commission also noted that ''We anticipate that the subcategories of small systems and the definitions of large and small systems may change as the submarine cable industry changes.'' *Id.* at n.39.

[128] *Submarine Cable Order,* 24 FCC Rcd at 4215, para. 18 (observing that a lower fee for smaller licensees would mitigate concerns that the tiered system would be a barrier to entry for new entrants). *See also* AT&T August 5 *Ex Parte* Letter at 1–2 (observing that a single flat fee would shift costs from large systems to smaller systems).

several very large submarine cable systems—is the appropriate time to revise our methodology in a manner that favors large systems and increases fees on the smaller systems.[129] Once the newer systems are operational, the increase in units should reduce the regulatory fees for the fee category. Unit counts impact the fee rate calculations from one year to the next. The unit count between FY 2018 and FY 2019 in the submarine cable fee category increased only slightly and did not have a dramatic impact on the calculation of the submarine cable fee rate. In the near future, however, there will be several larger submarine cable systems which will be in operation. For example, the Havfrue cable system will connect New Jersey with Denmark, Ireland, and Norway and will have a design capacity of 108 Tbps,[130] and the JGS North cable system will connect Guam with Japan and have a design capacity of 24 Tbps.[131] These new cable systems, and others, will make a significant change in the number of units, and an increase in units tends to reduce rates.

F. De Minimis Regulatory Fees

49. Section 9(e)(2) of the RAY BAUM'S Act permits the Commission to exempt a party from paying regulatory fees if ''in the judgment of the Commission, the cost of collecting a regulatory fee established under this section from a party would exceed the amount collected from such party. . . .'' [132] In the *FY 2019 NPRM,* we sought comment on how to implement section 9(e)(2) and on a proposed section 9(e)(2) de minimis fee exemption of $1,000.

50. Consistent with our tentative conclusion in the *FY 2019 NPRM,* we conclude that section 9(e)(2) codifies our authority to adopt a de minimis exemption. Section 9(e)(2) provides the Commission with discretion to exempt a ''party'' and to provide relief based on the cost of collection, both of which were factors considered in the existing de minimis exemption. The adoption of a monetary threshold applied against the sum of all annual regulatory fees due in a given fiscal year continues to be, in our estimation, an efficient mechanism for reducing the Commission's costs in assessing and collecting regulatory fees. As described in the *FY 2019 NPRM,* we have analyzed the average cost of collecting delinquent debt and estimate that the Commission's cost of collecting the debt would exceed $1,000.[133] The Commission's administrative debt collection process involves many steps, including data compilation, preparation and validation; invoicing; debt transfer for third party collection; responding to debtor questions and disputes; and processing payments. We received no comments on our analysis. Accordingly, we adopt a $1,000 section 9(e)(2) exemption.

51. In the *FY 2019 NPRM,* we also proposed to exclude multi-year regulatory fees from the proposed section 9(e)(2) exemption. We received no comment on this proposal. Including multi-year fees in the threshold would significantly increase the Commission's administrative costs.[134] Section 9(e)(2) provides the Commission with discretion as to whether and how to provide this exemption; specifically, it states that the Commission ''may exempt'' a party from paying regulatory fees. Because including multi-year fees in the threshold would significantly increase the Commission's administrative costs, we exclude these fees from the calculation of the section 9(e)(2) exemption.

G. Rules Pertaining to Waiver, Reduction, Deferral and Responsibility for Payment of Regulatory Fees

52. As we did in the *FY 2019 NPRM,* we again take this opportunity to explain and reinforce the importance of certain provisions of the prior section 9 that remain substantively unchanged by the RAY BAUM'S Act, as well as to reiterate our long-standing rule regarding the party responsible for payment of regulatory fees when a transfer of control or an assignment of a license or authorization has occurred. These provisions, pertaining to waiver, enforcement, and collection of regulatory fees, are essential to the Commission's exercise of its statutory authority here and our application of these provisions remains unchanged.

53. The new section 9A of the Communications Act permits the Commission to waive, reduce, or defer payment of a regulatory fee and associated interest charges and penalties for good cause if the waiver, reduction, or deferral (collectively, waiver) would serve the public interest.[135] The Commission interprets this provision narrowly to permit only those waivers ''unambiguously articulating 'extraordinary circumstances' outweighing the public interest in recouping the cost of the Commission's regulatory services for a particular regulatee.'' [136] Within this standard, the Commission recognizes that in exceptional circumstances, financial hardship may justify waiving and/or deferring a party's regulatory fees.[137] Financial inability, however, must be conclusively proven and the burden of proof for doing so lies solely with the regulatee seeking relief. Mere allegations of financial loss will not support a waiver request. Rather, as the Commission has stated, ''it is incumbent upon each regulatee to fully document its financial position and show that it lacks sufficient funds to pay the regulatory fees and to maintain its service to the public.'' [138] The Commission has suggested that documents that may be relevant to prove financial inability include balance sheets and profit and loss statements (audited if available), twelve month cash flow projections (with an explanation of how calculated), a list of officers and highest paid employees other than officers, and each individual's compensation, or similar information.[139] We emphasize, however, that the foregoing list of documents is not exhaustive and it is up to each regulatee to determine the documentation required to prove financial hardship in its own case.

54. The Commission frequently receives requests to waive regulatory fees owed by regulatees in bankruptcy or receivership, who cite the fact of the bankruptcy or receivership as proof of the regulatee's financial hardship, and thus justifying waiver. Here, we wish to emphasize the standard to which the Commission hews in determining whether to grant relief in such cases.

[129] There are ten pending applications for new international submarine cable systems. *See* the International Bureau Filing System (IBFS), *http://licensing.fcc.gov/myibfs/.*

[130] SCL–LIC–20180511–00010.

[131] SCL–LIC–20181106–00035.

[132] 47 U.S.C. 159(e)(2).

[133] The Commission increased the de minimis threshold to $1,000 in 2017, observing that the cost of collection had increased since FY 2014, when the Commission last visited the de minimis threshold, and that the prior estimate did not include the Commission's overhead costs. *FY 2017 Report and Order,* 32 FCC Rcd at 7073, para. 40.

[134] For example, all annual regulatory fees are due and payable in September of each fiscal year allowing for tracking by fee category and FRN within a single database (Fee Filer). The multi-year regulatory fees due dates are spread throughout each year and these fee categories are not included in the annual regulatory fee database.

[135] 47 U.S.C. 159A(d).

[136] *Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year,* Report and Order, 59 FR 30984 (June 16, 1994), 9 FCC Rcd 5333, 5344, para. 29 (1994) (*FY 1994 Report and Order*).

[137] *Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year,* Memorandum Opinion and Order, 62 FR 39450 (July 23, 1997),10 FCC Rcd 12759, 12761–12762, paras 12–14 (1995) (*FY 1994 MO&O*).

[138] *FY 1994 MO&O,* 10 FCC Rcd at 12762, para. 13.

[139] *Id.*

While the Commission recognizes that a bankruptcy or receivership filing may be sufficient evidence of financial hardship, we consider such cases individually,[140] taking into account a number of other factors that are relevant to the question of whether the regulatee lacks sufficient funds to pay the regulatory fees and to maintain its service to the public. Although the factors we consider are case-specific, they might include, for example, whether the regulatee intends to reorganize or liquidate in bankruptcy, the reason for the bankruptcy or receivership filing, the regulatee's ability or plan to obtain post-petition financing, the number, type and amount of other claims asserted against the regulatee in the bankruptcy or receivership case, and the priority accorded under bankruptcy or receivership law to the Commission's regulatory fee claim.

55. We also remind regulatees that requests to waive their regulatory fees must be properly filed by the date on which such fees are due.[141]

56. The Commission has previously stated that with respect to waiver, reduction, and deferral requests based on financial hardship, the Commission will base its decision on the information submitted with the request as well as ''any additional information available in the Commission's records.'' [142] In the *FY 2019 NPRM,* we proposed eliminating any obligation by the Commission to consult its records, and instead, requiring that any party seeking regulatory fee relief on any basis include with its request all documents and information the requestor believes to be relevant to prove its case, regardless of whether or not such documentation or information exists in Commission records. We received no comments on this proposal. Because we believe the burden to prove its case should rest entirely with the requesting party and not with the Commission, and that it is not an efficient use of the Commission's time to search our records for information or documents that might be relevant to a request for regulatory fee relief, we adopt the proposal set forth in the *FY 2019 NPRM.*

57. License assignments and transfers of control occur regularly throughout the fiscal year, many during the period when the Commission is establishing the regulatory fee schedule for the upcoming fiscal year. Consequently, we continuously update our records to reflect the identity of these new regulatees.[143] We remind all regulatees of our long-standing rule that the entity holding the license or authorization as of the date the regulatory fee is due is responsible for payment of the regulatory fee. Similarly, we determine eligibility for a regulatory fee exemption by the status of the licensee as of the fee due date, regardless of the status of any previous licensee.[144]

H. Effective Date

58. Providing a 30-day period after **Federal Register** publication before this *Report and Order* becomes effective as normally required by 5 U.S.C. 553(d) will not allow sufficient time to collect the FY 2019 fees before FY 2019 ends on September 30, 2019. For this reason, pursuant to 5 U.S.C. 553(d)(3), we find there is good cause to waive the requirements of section 553(d), and this Report and Order will become effective upon publication in the **Federal Register**. Because payments of the regulatory fees will not actually be due until late September, persons affected by this *Report and Order* will still have a reasonable period in which to make their payments and thereby comply with the rules established herein.

I. Changes to Several Rules To Conform to the Act as Amended

59. We amend §§ 1.1151, 1.1163, 1.1164, and 1.1166 of our rules to conform these to sections 9 and 9A of the Act, as amended by RAY BAUM'S Act. The Administrative Procedure Act provides that notice and public comment procedures do not apply when ''impracticable, unnecessary, or contrary to the public interest.'' [145] Notice is ''unnecessary'' when rule amendments involve little or no exercise of agency discretion.[146] The rule changes set forth herein are ministerial in nature and made to conform our regulations to the RAY BAUM'S Act, and we accordingly find good cause to adopt these changes without prior notice and comment. Similarly, under these circumstances, we find that these actions fall under the good cause exemption to the effective date requirements[147] and these amendments to our rules will become effective upon publication in the **Federal Register**.

60. Section 1.1151 of the Commission's rules describes the basis for the Commission's authority to prescribe and collect regulatory fees. We are updating this regulation to include a citation to the RAY BAUM'S Act and to conform to the changes made by the RAY BAUM'S Act.

61. Section 1.1163 of the Commission's rules describes the requirement to adjust regulatory fees. This section contains outdated references and language that is not in the current version of section 9. We are therefore deleting language, renumbering the paragraphs, and adding language.

62. Section 9A(c)(4) of the RAY BAUM'S Act codifies the Commission's authority to revoke any instrument of authorization held by a regulatee for failure to timely pay its regulatory fees, or any associated interest or penalties. Section 1.1164(c) and (f) of the Commission's rules, governing revocation for failure to pay regulatory fees, will be amended to reflect the changes made to the Commission's authority under the RAY BAUM'S Act.

63. Section 1.1166 of the Commission's rules describes how regulatees may seek waivers, reductions, and deferrals of regulatory fees. Section 9A of the Act now permits regulatees to seek waiver, reduction, or deferral of interest charges and penalties assessed against unpaid regulatory fees. We therefore add conforming language.

V. Procedural Matters

64. *Payment of Regulatory Fees.*—All regulatory fee payments must be made by online Automated Clearing House (ACH) payment, online credit card, or wire transfer. Any other form of payment (*e.g.,* checks, cashier's checks, or money orders) will be rejected. For payments by wire, a Form 159–E should still be transmitted via fax so that the Commission can associate the wire payment with the correct regulatory fee information.

65. In accordance with U.S. Treasury Financial Manual, the maximum amount that can be charged on a credit card for transactions with federal

[140] *Assessment and Collection of Regulatory Fees for Fiscal Year 2003, Report and Order,* 69 FR 41028 (July 7, 2004), 18 FCC Rcd 15985, 15990, para. 13 (2003).

[141] *FY 1994 Report and Order,* 9 FCC Rcd at 5345, para. 34.

[142] *FY 1994 Report and Order,* 9 FCC Rcd at 5346.

[143] For example, Table 7 of this Order lists two call signs that did not appear in the previous table of television listings (Appendix C) of the *FY 2019 NPRM,* reflecting a transfer of license in one case (WEVV–TV) and a change in exempt status (WSFJ–TV) in the other. *FY 2019 NPRM,* Appendix C. Table 7 in this *Report and Order* lists every call sign and its associated fee. Licensees that are exempt on the due date of the FY 2019 regulatory fee will not pay the listed fee.

[144] *Assessment and Collection of Regulatory Fees for Fiscal Year 2004,* Report and Order and Order on Reconsideration, 70 FR 41967 (July 21, 2005), 20 FCC Rcd 12259, 12266, para. 22 (2004).

[145] 5 U.S.C. 553(b)(B).

[146] *See, e.g., Amendment of Parts 0, 1, 73, and 74 of the Commission's Rules,* Order, 76 FR 70904 (Nov. 16, 2011), 26 FCC Rcd 13538, 13544, 13539–41, 13543, 13545, paras. 4–5, 10, 15 (OMD 2011) (deleting or amending obsolete rule provisions, including those superseded by an Act of Congress).

[147] 5 U.S.C. 553(d).

agencies is $24,999.99.[148] Transactions greater than $24,999.99 will be rejected. This limit applies to single payments or bundled payments of more than one bill. Multiple transactions to a single agency in one day may be aggregated and treated as a single transaction subject to the $24,999.99 limit. Customers who wish to pay an amount greater than $24,999.99 should consider available electronic alternatives such as Visa or MasterCard debit cards, ACH debits from a bank account, and wire transfers. Each of these payment options is available after filing regulatory fee information in Fee Filer. Further details will be provided regarding payment methods and procedures at the time of FY 2019 regulatory fee collection in Fact Sheets, available at *https://www.fcc.gov/regfees.*

66. Payment Methods.—During the fee season for collecting FY 2019 regulatory fees, regulatees can pay their fees by credit card through Pay.gov, ACH, debit card,[149] or by wire transfer. Additional filing and payment instructions are posted on the Commission's website at *https://www.fcc.gov/licensing-databases/fees/regulatory-fees.* The receiving bank for all wire payments is the U.S. Treasury, New York, New York. When making a wire transfer, regulatees must fax a copy of their Fee Filer generated Form 159–E to the Federal Communications Commission at (202) 418–2843 at least one hour before initiating the wire transfer (but on the same business day) so as not to delay crediting their account. Regulatees should discuss arrangements (including bank closing schedules) with their bankers several days before they plan to make the wire transfer to allow sufficient time for the transfer to be initiated and completed before the deadline. Complete instructions for making wire payments are posted at *https://www.fcc.gov/licensing-databases/fees/wire-transfer.*

67. *De Minimis Regulatory Fees.*—Under the Commission's de minimis rule for regulatory fee payments, a regulatee is exempt from paying regulatory fees if the sum total of all of its annual regulatory fee liabilities is $1,000 or less for the fiscal year. The de minimis threshold applies only to filers of annual regulatory fees, not regulatory fees paid through multi-year filings, and it is not a permanent exemption. Each regulatee will need to reevaluate the total annual fee liability each fiscal year to determine whether they meet the de minimis exemption.

68. *Standard Fee Calculations and Payment Dates.*—The Commission will accept fee payments made in advance of the window for the payment of regulatory fees. The responsibility for payment of fees by service category is as follows:

- *Media Services:* Regulatory fees must be paid for initial construction permits that were granted on or before October 1, 2018 for AM/FM radio stations, VHF/UHF full service television stations, and satellite television stations. Regulatory fees must be paid for all broadcast facility licenses granted on or before October 1, 2018. In instances where a permit or license is transferred or assigned after October 1, 2018, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *Wireline (Common Carrier) Services:* Regulatory fees must be paid for authorizations that were granted on or before October 1, 2018. In instances where a permit or license is transferred or assigned after October 1, 2018, responsibility for payment rests with the holder of the permit or license as of the fee due date. Audio bridging service providers are included in this category.[150] For Responsible Organizations (RespOrgs) that manage Toll Free Numbers (TFN), regulatory fees should be paid on all working, assigned, and reserved toll free numbers as well as toll free numbers in any other status as defined in § 52.103 of the Commission's rules.[151] The unit count should be based on toll free numbers managed by RespOrgs on or about December 31, 2018.
- *Wireless Services:* CMRS cellular, mobile, and messaging services (fees based on number of subscribers or telephone number count): Regulatory fees must be paid for authorizations that were granted on or before October 1, 2018. The number of subscribers, units, or telephone numbers on December 31, 2018 will be used as the basis from which to calculate the fee payment. In instances where a permit or license is transferred or assigned after October 1, 2018, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *Wireless Services, Multi-year fees:* The first eight regulatory fee categories in our Schedule of Regulatory Fees pay ''small multi-year wireless regulatory fees.'' Entities pay these regulatory fees in advance for the entire amount period covered by the five-year or ten-year terms of their initial licenses and pay regulatory fees again only when the license is renewed, or a new license is obtained. We include these fee categories in our rulemaking to publicize our estimates of the number of ''small multi-year wireless'' licenses that will be renewed or newly obtained in FY 2019.
- *Multichannel Video Programming Distributor Services (cable television operators, CARS licensees, DBS, and IPTV):* Regulatory fees must be paid for the number of basic cable television subscribers as of December 31, 2018.[152] Regulatory fees also must be paid for CARS licenses that were granted on or before October 1, 2018. In instances where a permit or license is transferred or assigned after October 1, 2018, responsibility for payment rests with the holder of the permit or license as of the fee due date. For providers of Direct Broadcast Satellite (DBS) service and IPTV-based MVPDs, regulatory fees should be paid based on a subscriber count on or about December 31, 2018. In instances where a permit or license is transferred or assigned after October 1, 2018, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *International Services:* Regulatory fees must be paid for (1) earth stations and (2) geostationary orbit space stations and non-geostationary orbit satellite systems that were licensed and operational on or before October 1, 2018. In instances where a permit or license is transferred or assigned after October 1, 2018, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *International Services (Submarine Cable Systems):* Regulatory fees for

[148] U.S. Treasury Financial Manual, Volume 1, Part 5, Chapter 7000, Section 7045.10—Transaction Maximums. Customers who owe an amount on a bill, debt, or other obligation due to the federal government are prohibited from splitting the total amount due into multiple payments. Splitting an amount owed into several payment transactions violates the credit card network and Fiscal Service rules. An amount owed that exceeds the Fiscal Service maximum dollar amount, $24,999.99, may not be split into two or more payment transactions in the same day by using one or multiple cards. Also, an amount owed that exceeds the Fiscal Service maximum dollar amount may not be split into two or more transactions over multiple days by using one or more cards. U.S. Treasury Financial Manual, Volume 1, Part 5, Chapter 7000, Section 7045.20—Prohibitions on Splitting Transactions.

[149] Only Visa and MasterCard branded debit cards are accepted by *Pay.gov.*

[150] Audio bridging services are toll teleconferencing services.

[151] 47 CFR 52.103.

[152] Cable television system operators should compute their number of basic subscribers as follows: Number of single-family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, etc.) paying at the basic subscriber rate + bulk rate customers + courtesy and free service. Note: Bulk-Rate Customers = Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Operators may base their count on ''a typical day in the last full week'' of December 2018, rather than on a count as of December 31, 2018.

submarine cable systems are to be paid on a per cable landing license basis for all systems that are licensed and operational as of October 1, 2018. The fee is based on circuit capacity as of December 31, 2018. In instances where a license is transferred or assigned after October 1, 2018, responsibility for payment rests with the holder of the license as of the fee due date. For regulatory fee purposes, the allocation in FY 2019 will remain at 87.6% for submarine cable and 12.4% for satellite/terrestrial facilities.

• *International Services (Terrestrial and Satellite Services):* Regulatory fees for Terrestrial and Satellite IBCs are to be paid based on active (used or leased) international bearer circuits as of December 31, 2018 in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier. When calculating the number of such active circuits, entities must include circuits used by themselves or their affiliates. For these purposes, ''active circuits'' include backup and redundant circuits as of December 31, 2018 and include both common carrier and non-common carrier circuits for both terrestrial and satellite services. Whether circuits are used specifically for voice or data is not relevant for purposes of determining that they are active circuits.[153] In instances where a permit or license is transferred or assigned after October 1, 2018, responsibility for payment rests with the holder of the permit or license as of the fee due date based on circuit counts as of December 31, 2018. For regulatory fee purposes, the allocation in FY 2019 will remain at 87.6% for submarine cable and 12.4% for satellite/terrestrial facilities.

69. *Commercial Mobile Radio Service (CMRS) and Mobile Services Assessments.*—The Commission will compile data from the Numbering Resource Utilization Forecast (NRUF) report that is based on ''assigned'' telephone number (subscriber) counts that have been adjusted for porting to net Type 0 ports (''in'' and ''out'').[154] This information of telephone numbers (subscriber count) will be posted on the Commission's electronic filing and payment system (Fee Filer) along with the carrier's Operating Company Numbers (OCNs).

70. A carrier wishing to revise its telephone number (subscriber) count can do so by accessing Fee Filer and follow the prompts to revise their telephone number counts. Any revisions to the telephone number counts should be accompanied by an explanation or supporting documentation.[155] The Commission will then review the revised count and supporting documentation and either approve or disapprove the submission in Fee Filer. If the submission is disapproved, the Commission will contact the provider to afford the provider an opportunity to discuss its revised subscriber count and/or provide additional supporting documentation. If we receive no response from the provider, or we do not reverse our initial disapproval of the provider's revised count submission, the fee payment must be based on the number of subscribers listed initially in Fee Filer. Once the timeframe for revision has passed, the telephone number counts are final and are the basis upon which CMRS regulatory fees are to be paid. Providers can view their final telephone counts online in Fee Filer. A final CMRS assessment letter will not be mailed out.

71. Because some carriers do not file the NRUF report, they may not see their telephone number counts in Fee Filer. In these instances, the carriers should compute their fee payment using the standard methodology that is currently in place for CMRS Wireless services (*i.e.,* compute their telephone number counts as of December 31, 2018), and submit their fee payment accordingly. Whether a carrier reviews its telephone number counts in Fee Filer or not, the Commission reserves the right to audit the number of telephone numbers for which regulatory fees are paid. In the event that the Commission determines that the number of telephone numbers that are paid is inaccurate, the Commission will bill the carrier for the difference between what was paid and what should have been paid.

72. *Enforcement.*—Regulatory fee payments must be paid by their due date. Section 9A(c)(1) of the Act requires the Commission to impose a late payment penalty of 25% of unpaid regulatory fee debt, to be assessed on the first day following the deadline for payment of the fees. Section 9A(c)(2) of the Act requires the Commission to assess interest at the rate set forth in 31 U.S.C. 3717 on all unpaid regulatory fees, including the 25% penalty, until the debt is paid in full.[156] The RAY BAUM'S Act, however, prohibits the Commission from assessing the administrative costs of collecting delinquent regulatory fee debt.[157] Thus, while section 9A(c) of the Act leaves intact those parts of section 1.1940 of the Commission's rules pertaining to penalty and interest charges, the Commission will no longer assess administrative costs on delinquent regulatory fee debts.[158]

73. The Commission will pursue collection of all past due regulatory fees, including penalties and accrued interest, using collection remedies available to it under the Debt Collection Improvement Act of 1996, its implementing regulations and federal common law. These remedies include offsetting regulatory fee debt against monies owed to the debtor by the Commission, and referral of the debt to the United States Treasury for further collection efforts, including centralized offset against monies other federal agencies may owe the debtor.[159]

74. Failure to timely pay regulatory fees, penalties or accrued interest will also subject regulatees to the Commission's ''red light'' rule, which generally requires the Commission to withhold action on and subsequently dismiss applications and other requests for benefits by any entity owing debt, including regulatory fee debt, to the Commission.[160]

75. In addition to financial penalties, section 9(c)(3) of the Act, and § 1.1164(f) of the Commission's rules grant the Commission the authority to revoke authorizations for failure to pay regulatory fees in a timely fashion.[161] Should a fee delinquency not be rectified in a timely manner the Commission may require the licensee to file with documented evidence within sixty (60) calendar days that full payment of all outstanding regulatory fees has been made, plus any associated penalties as calculated by the Secretary of Treasury in accordance with § 1.1164(a) of the Commission's rules,[162] or show cause why the payment is inapplicable or should be waived or

[153] We encourage terrestrial and satellite service providers to seek guidance from the International Bureau's Telecommunications and Analysis Division to verify their particular IBC reporting processes to ensure that their calculation methods comply with our rules.

[154] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2005,* Report and Order and Order on Reconsideration, 70 FR 41967 (July 21, 2005), 20 FCC Rcd 12259, 12264, paras. 38–44 (2005).

[155] In the supporting documentation, the provider will need to state a reason for the change, such as a purchase or sale of a subsidiary, the date of the transaction, and any other pertinent information that will help to justify a reason for the change.

[156] 47 U.S.C. 159A(c)(1).

[157] Section 9A(c)(2) provides that ''section 3717 shall not otherwise apply to such a fee or penalty.''

[158] *See FY 2018 Report and Order,* 33 FCC Rcd at 8502–8503, paras. 16–17 (adopting this amendment to section 1.1940 of our rules to conform to the RAY BAUM'S Act).

[159] 31 U.S.C. 3701 *et seq.;* 31 CFR parts 901 through 904; 47 CFR 1.1901 through 1.1953.

[160] *See* 47 CFR 1.1910.

[161] 47 U.S.C. 159(c)(3); 47 CFR 1.1164(f).

[162] 47 CFR 1.1164(a).

deferred. Failure to provide such evidence of payment or to show cause within the time specified may result in revocation of the station license.[163]

VI. List of Tables

TABLE 1—LIST OF COMMENTERS

Commenter	Abbreviated name
50 State Broadcasters Associations	State Broadcasters.
AT&T Services, Inc. and Dish Network, L.L.C	DBS Providers.
CenturyLink, Inc	CenturyLink.
EchoStar Satellite Operating Corporation, Hughes Network Systems, LLC, Intelsat License LLC, Inmarsat Inc., SES Americom, Inc., Space Exploration Technologies Corp., and World Satellites, LTD.	Satellite Operators.
INCOMPAS	INCOMPAS.
Brian Lynott	Lynott.
Mentor Partners, Inc	Mentor.
Multicultural Media, Telecom, and Internet Council and the National Association of Black Owned Broadcasters	MMTC.
National Association of Broadcasters	NAB.
NCTA—The Internet & Television Association and ACA Connects—America's Communications Association	NCTA.
Nexstar Broadcasting, Inc. and Gray Television, Inc	Nexstar.
North American Submarine Cable Association and the SEA–US Licensees	NASCA.
PMCM TV, LLC	PMCM.
Ramar Communications, Inc	Ramar.
T.Z. Sawyer Technical Consultants	TZS.
List of Reply Commenters	
CenturyLink, Inc	CenturyLink.
Hubbard Broadcasting, Inc	Hubbard.
Intelsat License LLC	Intelsat.
Intelsat License LLC and SES Americom, Inc	Intelsat/SES.
National Association of Broadcasters	NAB.
NCTA—The Internet & Television Association and ACA Connects—America's Communications Association	NCTA.
North American Submarine Cable Association and Southeast Asia—US Licensees (GTI Corporation d/b/a GTI Telecom, Hawaiian Telecom Services Company, Inc., RAM Telecom International, Inc., TeleGuam Holdings, LLC d/b/a GTA, PT Telekomunikasi Indonesia International, and Telekomunikasi Indonesia International (USA)).	NASCA.
Satellite Industry Association	SIA.

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[163] *See, e.g., Cortaro Broadcasting Corp.,* Order to Pay or Show Cause, 32 FCC Rcd 9336 (MB 2017).

TABLE 2

Calculation of FY 2019 Revenue Requirements and Pro-Rata Fees

Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.

Fee Category	FY 2019 Payment Units	Yrs	FY 2018 Revenue Estimate	Pro-Rated FY 2019 Revenue Require-ment	Computed FY 2019 Regulatory Fee	Rounded FY 2019 Reg. Fee	Expected FY 2019 Revenue
PLMRS (Exclusive Use)	450	10	85,000	112,500	25.00	25	112,500
PLMRS (Shared use)	12,400	10	1,250,000	1,239,999	10.00	10	1,240,000
Microwave	10,000	10	1,937,500	2,500,000	25.00	25	2,500,000
Marine (Ship)	7,100	10	1,072,500	1,065,000	15.00	15	1,065,000
Aviation (Aircraft)	4,500	10	400,000	450,000	10.00	10	450,000
Marine (Coast)	60	10	30,000	24,000	40.00	40	24,000
Aviation (Ground)	1,100	10	200,000	220,000	20.00	20	220,000
AM Class A[1]	62	1	266,175	285,628	4,607	4,600	285,200
AM Class B[1]	1,472	1	3,274,450	3,543,984	2,551	2,550	3,541,950
AM Class C[1]	844	1	1,177,200	1,268,909	1,503	1,500	1,266,000
AM Class D[1]	1,424	1	3,907,800	4,192,065	2,944	2,950	4,200,800
FM Classes A, B1 & C3[1]	3,069	1	8,152,450	8,809,970	2,871	2,875	8,823,375
FM Classes B, C, C0, C1 & C2[1]	3,140	1	10,009,600	10,794,578	3,438	3,450	10,833,000
AM Construction Permits [2]	3	1	4,950	1,785	595.1	595	1,785

Fee Category	FY 2019 Payment Units	Yrs	FY 2018 Revenue Estimate	Pro-Rated FY 2019 Revenue Require-ment	Computed FY 2019 Regulatory Fee	Rounded FY 2019 Reg. Fee	Expected FY 2019 Revenue
FM Construction Permits[2]	67	1	105,185	67,000	1,000	1,000	67,000
Satellite TV[5]	125	1	189,000	202,847	1,623	1,625	203,125
Digital TV Mkt 1-10 [5]	143	1	7,164,000	7,722,293	54,002	54,000	7,722,000
Digital TV Mkt 11-25 [5]	140	1	5,243,000	5,693,047	40,665	40,675	5,694,500
Digital TV Mkt 26-50 [5]	186	1	4,729,725	5,052,126	27,162	27,150	5,049,900
Digital TV Mkt 51-100 [5]	291	1	3,617,750	3,939,717	13,539	13,550	3,943,050
Digital TV Remaining Markets[5]	375	1	1,594,900	1,668,991	4,451	4,450	1,668,750
Digital TV Construction Permits[2]	3	1	12,300	13,350	4,450	4,450	13,350
LPTV/Translators/ Boosters/Class A TV	4,100	1	1,515,820	1,622,772	345.3	345	1,621,500
CARS Stations	175	1	188,125	201,018	1,218	1,225	202,125
Cable TV Systems, including IPTV	57,000,000	1	46,970,000	48,767,045	.8556	.86	49,020,000
Direct Broadcast Satellite (DBS)	30,000,000	1	15,360,000	18,011,242	.6004	.60	18,000,000
Interstate Telecommunication Service Providers	$32,400,000,000	1	100,686,000	102,695,189	0.003170	0.00317	102,708,000

Fee Category	FY 2019 Payment Units	Yrs	FY 2018 Revenue Estimate	Pro-Rated FY 2019 Revenue Require-ment	Computed FY 2019 Regulatory Fee	Rounded FY 2019 Reg. Fee	Expected FY 2019 Revenue
Toll Free Numbers	33,000,000	1	3,320,000	3,954,211	0.1198	0.12	3,960,000
CMRS Mobile Services (Cellular/Public Mobile)	421,000,000	1	80,800,000	78,424,217	0.1863	0.19	79,990,000
CMRS Messaging Services	1,900,000	1	80,000	152,000	0.0800	0.080	152,000
BRS/[3]	1,260	1	705,000	869,400	690	690	869,400
LMDS	140	1	240,000	96,600	690	690	96,600
Per Gbps circuit Int'l Bearer Circuits Terrestrial (Common & Non-Common) & Satellite (Common & Non-Common)	7,440	1	685,102	900,785	121.073	121	900,240
Submarine Cable Providers (See chart at bottom of Table 3)[4]	31.625	1	4,959,035	6,363,608	201,225	201,225	6,363,741
Earth Stations	3,300	1	1,105,000	1,399,050	424	425	1,402,500
Space Stations (Geostationary)	98	1	12,401,450	15,643,457	159,627	159,625	15,643,250

Fee Category	FY 2019 Payment Units	Yrs	FY 2018 Revenue Estimate	Pro-Rated FY 2019 Revenue Require-ment	Computed FY 2019 Regulatory Fee	Rounded FY 2019 Reg. Fee	Expected FY 2019 Revenue
Space Stations (Non-Geostationary)	7	1	859,425	1,084,200	154,886	154,875	1,084,125
****** **Total Estimated Revenue to be Collected**			**324,365,671**	**339,052,583**			**340,929,616**
****** **Total Revenue Requirement**			**322,035,000**	**339,000,000**			**339,000,000**
Difference			**2,330,671**	**52,583**			**1,929,616**

Notes on Table 2

[1] The fee amounts listed in the column entitled ''Rounded New FY 2019 Regulatory Fee'' constitute a weighted average broadcast regulatory fee by class of service. The actual FY 2019 regulatory fees for AM/FM radio station are listed on a grid located at the end of Table 3.

[2] The AM and FM Construction Permit revenues and the Digital (VHF/UHF) Construction Permit revenues were adjusted, respectively, to set the regulatory fee to an amount no higher than the lowest licensed fee for that class of service. Reductions in the Digital (VHF/UHF) Construction Permit revenues, and in the AM and FM Construction Permit revenues, were offset by increases in the revenue totals for Digital television stations by market size, and in the AM and FM radio stations by class size and population served, respectively.

[3] The MDS/MMDS category was renamed Broadband Radio Service (BRS). *See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands,* Report & Order and Further Notice of Proposed Rulemaking, 69 FR 72020 (Dec. 10, 2004) and 69 FR 72048 (Dec. 10, 2004), 19 FCC Rcd 14165, 14169, para. 6 (2004).

[4] The chart at the end of Table 3 lists the submarine cable bearer circuit regulatory fees (common and non-common carrier basis) that resulted from the adoption of the *Assessment and Collection of Regulatory Fees for Fiscal Year 2008,* Report and Order and Further Notice of Proposed Rulemaking, 73 FR 50201 (Aug. 26, 2008) and 73 FR 50285 (Aug. 26, 2008), 24 FCC Rcd 6388 (2008) and *Assessment and Collection of Regulatory Fees for Fiscal Year 2008,* Second Report and Order, 74 FR 22104 (May 12, 2009), 24 FCC Rcd 4208 (2009).

[5] The actual regulatory fees to be paid are identified in Table 7. The fee amounts listed in Rule Changes section are for the purpose of calculating the fees listed in Table 7.

TABLE 3

FY 2019 Regulatory Fees

Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.

Fee Category	Annual Regulatory Fee (U.S. $s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	25
Microwave (per license) (47 CFR part 101)	25
Marine (Ship) (per station) (47 CFR part 80)	15
Marine (Coast) (per license) (47 CFR part 80)	40
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	10
PLMRS (Shared Use) (per license) (47 CFR part 90)	10
Aviation (Aircraft) (per station) (47 CFR part 87)	10
Aviation (Ground) (per license) (47 CFR part 87)	20
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80, and 90)	.19
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24, and 90)	.08
Broadband Radio Service (formerly MMDS/ MDS) (per license) (47 CFR part 27)	690
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	690
AM Radio Construction Permits	595
FM Radio Construction Permits	1,000

Fee Category	Annual Regulatory Fee (U.S. $s)
AM and FM Broadcast Radio Station Fees	See Table Below
Digital TV (47 CFR part 73) VHF and UHF Commercial Fee Factor	$.007224 See Table 7 for fee amounts due, also available at https://www.fcc.gov/licensing-databases/fees/regulatory-fees
Construction Permits	4,450
Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74)	345
CARS (47 CFR part 78)	1,225
Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV	.86
Direct Broadcast Service (DBS) (per subscriber) (as defined by section 602(13) of the Act)	.60
Interstate Telecommunication Service Providers (per revenue dollar)	.00317
Toll Free (per toll free subscriber) (47 CFR 52.101(f))	.12
Earth Stations (47 CFR part 25)	425
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part	159,625

Fee Category	Annual Regulatory Fee (U.S. $s)
100)	
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	154,875
International Bearer Circuits - Terrestrial/Satellites (per Gbps circuit)	121
Submarine Cable Landing Licenses Fee (per cable system)	See Table Below

FY 2019 RADIO STATION REGULATORY FEES						
Population Served	**AM Class A**	**AM Class B**	**AM Class C**	**AM Class D**	**FM Classes A, B1 & C3**	**FM Classes B, C, C0, C1 & C2**
<=25,000	$950	$685	$595	$655	$1,000	$1,200
25,001 – 75,000	$1,425	$1,000	$895	$985	$1,575	$1,800
75,001 – 150,000	$2,150	$1,550	$1,350	$1,475	$2,375	$2,700
150,001 – 500,000	$3,200	$2,325	$2,000	$2,225	$3,550	$4,050
500,001 – 1,200,000	$4,800	$3,475	$3,000	$3,325	$5,325	$6,075
1,200,001 – 3,000,000	$7,225	$5,200	$4,525	$4,975	$7,975	$9,125
3,000,001 – 6,000,000	$10,825	$7,800	$6,775	$7,450	$11,950	$13,675
>6,000,000	$16,225	$11,700	$10,175	$11,200	$17,950	$20,500

FY 2019 International Bearer Circuits - Submarine Cable Systems

Submarine Cable Systems (capacity as of December 31, 2018)	FY 2019 Regulatory Fees
Less than 50 Gbps	$12,575
50 Gbps or greater, but less than 250 Gbps	$25,150
250 Gbps or greater, but less than 1,000 Gbps	$50,300
1,000 Gbps or greater, but less than 4,000 Gbps	$100,600
4,000 Gbps or greater	$201,225

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TABLE 4—Sources of Payment Unit Estimates for FY 2019

In order to calculate individual service fees for FY 2019, we adjusted FY 2018 payment units for each service to more accurately reflect expected FY 2019 payment liabilities. We obtained our updated estimates through a variety of means. For example, we used Commission licensee data bases, actual prior year payment records and industry and trade association projections when available. The databases we consulted include our Universal Licensing System (ULS), International Bureau Filing System (IBFS), Consolidated Database System (CDBS) and Cable Operations and Licensing System (COALS), as well as reports generated within the Commission such as the Wireless Telecommunications Bureau's *Numbering Resource Utilization Forecast.*

We sought verification for these estimates from multiple sources and, in all cases, we compared FY 2019 estimates with actual FY 2018 payment units to ensure that our revised estimates were reasonable. Where appropriate, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated with sufficient accuracy. These include an unknown number of waivers and/or exemptions that may occur in FY 2019 and the fact that, in many services, the number of actual licensees or station operators fluctuates from time to time due to economic, technical, or other reasons. When we note, for example, that our estimated FY 2019 payment units are based on FY 2018 actual payment units, it does not necessarily mean that our FY 2019 projection is exactly the same number as in FY 2018. We have either rounded the FY 2019 number or adjusted it slightly to account for these variables.

Fee category	Sources of payment unit estimates
Land Mobile (All), Microwave, Marine (Ship & Coast), Aviation (Aircraft & Ground), Domestic Public Fixed.	Based on Wireless Telecommunications Bureau (WTB) projections of new applications and renewals taking into consideration existing Commission licensee data bases. Aviation (Aircraft) and Marine (Ship) estimates have been adjusted to take into consideration the licensing of portions of these services on a voluntary basis.
CMRS Cellular/Mobile Services	Based on WTB projection reports, and FY 2018 payment data.
CMRS Messaging Services	Based on WTB reports, and FY 2018 payment data.
AM/FM Radio Stations	Based on CDBS data, adjusted for exemptions, and actual FY 2018 payment units.
Digital TV Stations (Combined VHF/UHF units).	Based on CDBS data, adjusted for exemptions, and actual FY 2018 payment units.
AM/FM/TV Construction Permits	Based on CDBS data, adjusted for exemptions, and actual FY 2018 payment units.
LPTV, Translators and Boosters, Class A Television.	Based on CDBS data, adjusted for exemptions, and actual FY 2018 payment units.
BRS (formerly MDS/MMDS)LMDS	Based on WTB reports and actual FY 2018 payment units. Based on WTB reports and actual FY 2018 payment units.
Cable Television Relay Service (CARS) Stations.	Based on data from Media Bureau's COALS database and actual FY 2018 payment units.
Cable Television System Subscribers, Including IPTV Subscribers.	Based on publicly available data sources for estimated subscriber counts and actual FY 2018 payment units.
Interstate Telecommunication Service Providers.	Based on FCC Form 499–Q data for the four quarters of calendar year 2018, the Wireline Competition Bureau projected the amount of calendar year 2018 revenue that will be reported on 2019 FCC Form 499–A worksheets due in April 2019.
Earth Stations	Based on International Bureau licensing data and actual FY 2018 payment units.
Space Stations (GSOs & NGSOs)	Based on International Bureau data reports and actual FY 2018 payment units.
International Bearer Circuits	Based on International Bureau reports and submissions by licensees, adjusted as necessary.
Submarine Cable Licenses	Based on International Bureau license information.

TABLE 5—FACTORS, MEASUREMENTS, AND CALCULATIONS THAT DETERMINE STATION SIGNAL CONTOURS AND ASSOCIATED POPULATION COVERAGES

AM Stations
For stations with nondirectional daytime antennas, the theoretical radiation was used at all azimuths. For stations with directional daytime antennas, specific information on each day tower, including field ratio, phase, spacing, and orientation was retrieved, as well as the theoretical pattern root-mean-square of the radiation in all directions in the horizontal plane (RMS) figure (milliVolt per meter (mV/m) @1 km) for the antenna system. The standard, or augmented standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in §§ 73.150 and 73.152 of the Commission's rules. Radiation values were calculated for each of 360 radials around the transmitter site. Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure R3. Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the principal community (5 mV/m) contour was predicted for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. (A block centroid is the center point of a small area containing population as computed by the U.S. Census Bureau.) The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.
FM Stations
The greater of the horizontal or vertical effective radiated power (ERP) (kW) and respective height above average terrain (HAAT) (m) combination was used. Where the antenna height above mean sea level (HAMSL) was available, it was used in lieu of the average HAAT figure to calculate specific HAAT figures for each of 360 radials under study. Any available directional pattern information was applied as well, to produce a radial-specific ERP figure. The HAAT and ERP figures were used in conjunction with the Field Strength (50–50) propagation curves specified in 47 CFR 73.313 of the Commission's rules to predict the distance to the principal community (70 dBu (decibel above 1 microVolt per meter) or 3.17 mV/m) contour for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

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TABLE 6

FY 2018 Schedule of Regulatory Fees

FY 2018 regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.

Fee Category	FY 2018 Annual Regulatory Fee (U.S. $s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	25
Microwave (per license) (47 CFR part 101)	25
Marine (Ship) (per station) (47 CFR part 80)	15
Marine (Coast) (per license) (47 CFR part 80)	40
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	10
PLMRS (Shared Use) (per license) (47 CFR part 90)	10
Aviation (Aircraft) (per station) (47 CFR part 87)	10
Aviation (Ground) (per license) (47 CFR part 87)	20
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80, and 90)	.20
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24, and 90)	.08
Broadband Radio Service (formerly MMDS/ MDS) (per license) (47 CFR part 27)	600
Local Multipoint Distribution Service (per call sign) (47 CFR part 101)	600

Fee Category	FY 2018 Annual Regulatory Fee (U.S. $s)
AM Radio Construction Permits	550
FM Radio Construction Permits	965
Digital TV (47 CFR part 73) VHF and UHF Commercial	
Markets 1-10	49,750
Markets 11-25	37,450
Markets 26-50	25,025
Markets 51-100	12,475
Remaining Markets	4,100
Construction Permits	4,100
Satellite Television Stations (All Markets)	1,500
Low Power TV, Class A TV, TV/FM Trans. & Boosters (47 CFR part 74)	380
CARS (47 CFR part 78)	1,075
Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV	.77
Direct Broadcast Service (DBS) (per subscriber) (as defined by section 602(13) of the Act)	.48
Interstate Telecommunication Service Providers (per revenue dollar)	.00291
Toll Free (per toll free subscriber) (47 CFR 52.101(f))	.10
Earth Stations (47 CFR part 25)	325
Space Stations (per operational station in geostationary orbit) (47 CFR	

Fee Category	FY 2018 Annual Regulatory Fee (U.S. $s)
part 25) also includes DBS Service (per operational station) (47 CFR part 100)	127,850
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	122,775
International Bearer Circuits - Terrestrial/Satellites (per Gbps circuit)	176
Submarine Cable Landing Licenses Fee (per cable system)	See Table Below

FY 2018 RADIO STATION REGULATORY FEES						
Population Served	**AM Class A**	**AM Class B**	**AM Class C**	**AM Class D**	**FM Classes A, B1 & C3**	**FM Classes B, C, C0, C1 & C2**
<=25,000	$880	$635	$550	$605	$965	$1,100
25,001 – 75,000	$1,325	$950	$825	$910	$1,450	$1,650
75,001 – 150,000	$1,975	$1,425	$1,250	$1,350	$2,175	$2,475
150,001 – 500,000	$2,975	$2,150	$1,850	$2,050	$3,250	$3,725
500,001 – 1,200,000	$4,450	$3,225	$2,775	$3,050	$4,875	$5,575
1,200,001 – 3,000,000	$6,700	$4,825	$4,175	$4,600	$7,325	$8,350

3,000,001 – 6,000,000	$10,025	$7,225	$6,275	$6,900	$11,000	$12,525
>6,000,000	$15,050	$10,850	$9,400	$10,325	$16,500	$18,800

FY 2018 International Bearer Circuits - Submarine Cable

Submarine Cable Systems (capacity as of December 31, 2017)	Fee amount for FY 2018
< 50 Gbps	$9,850
50 Gbps or greater, but less than 250 Gbps	$19,725
250 Gbps or greater, but less than 1,000 Gbps	$39,425
1,000 Gbps or greater, but less than 4,000 Gbps	$78,875
4000 Gbps or greater	$157,750

TABLE 7

FY 2019 Full-Power Broadcast Television Regulatory Fees by Call Sign

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
3246	KAAH-TV	996,917	$7,202.10	$13,550.00	$10,376.05
18285	KAAL	52,021	$375.82	$4,450.00	$2,412.91
11912	KAAS-TV	220,262	$1,591.25	$1,625.00	$1,608.13
56528	KABB	2,474,296	$17,875.23	$27,150.00	$22,512.61
282	KABC-TV	17,791,505	$128,532.40	$54,000.00	$91,266.20
1236	KACV-TV	386,469	$2,792.00	$4,450.00	$3,621.00
33261	KADN-TV	877,965	$6,342.74	$4,450.00	$5,396.37

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
8263	KAEF-TV	138,085	$997.58	$4,450.00	$2,723.79
2728	KAET	4,217,217	$30,466.73	$40,675.00	$35,570.87
2767	KAFT	1,245,902	$9,000.86	$13,550.00	$11,275.43
62442	KAID	19,363	$139.89	$4,450.00	$2,294.94
4145	KAII-TV	188,810	$1,364.03	$1,625.00	$1,494.52
67494	KAIL	1,967,744	$14,215.71	$13,550.00	$13,882.85
13988	KAIT	861,149	$6,221.26	$4,450.00	$5,335.63
40517	KAJB	383,886	$2,773.33	$4,450.00	$3,611.67
65522	KAKE	803,937	$5,807.94	$13,550.00	$9,678.97
804	KAKM	394,082	$2,846.99	$4,450.00	$3,648.50
148	KAKW-DT	2,615,956	$18,898.63	$27,150.00	$23,024.32
51598	KALB-TV	943,307	$6,814.80	$4,450.00	$5,632.40
51241	KALO	948,733	$6,854.00	$13,550.00	$10,202.00
40820	KAMC	391,526	$2,828.53	$4,450.00	$3,639.26
19191	KAME-TV	611,981	$4,421.18	$4,450.00	$4,435.59
8523	KAMR-TV	366,476	$2,647.56	$4,450.00	$3,548.78
65301	KAMU-TV	388,418	$2,806.08	$13,550.00	$8,178.04
2506	KAPP	319,797	$2,310.33	$4,450.00	$3,380.17
3658	KARD	703,234	$5,080.42	$4,450.00	$4,765.21
23079	KARE	3,924,944	$28,355.24	$40,675.00	$34,515.12
33440	KARK-TV	1,212,038	$8,756.21	$13,550.00	$11,153.10
37005	KARZ-TV	1,186,579	$8,572.28	$13,550.00	$11,061.14
32311	KASA-TV	1,161,789	$8,393.19	$27,150.00	$17,771.60

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
41212	KASN	1,117,403	$8,072.53	$13,550.00	$10,811.27
7143	KASW	4,170,505	$30,129.27	$40,675.00	$35,402.13
55049	KASY-TV	1,140,916	$8,242.40	$27,150.00	$17,696.20
33471	KATC	1,348,897	$9,744.93	$4,450.00	$7,097.46
13813	KATN	97,466	$704.13	$1,625.00	$1,164.57
21649	KATU	2,978,043	$21,514.48	$40,675.00	$31,094.74
33543	KATV	1,257,777	$9,086.65	$13,550.00	$11,318.32
50182	KAUT-TV	1,608,476	$11,620.22	$27,150.00	$19,385.11
6864	KAUZ-TV	381,671	$2,757.33	$4,450.00	$3,603.67
73101	KAVU-TV	320,484	$2,315.29	$4,450.00	$3,382.65
49579	KAWB	311,497	$2,250.37	$40,675.00	$21,462.69
49578	KAWE	136,067	$983.00	$40,675.00	$20,829.00
58684	KAYU-TV	809,464	$5,847.87	$13,550.00	$9,698.93
29234	KAZA-TV	11,151,141	$80,559.96	$54,000.00	$67,279.98
17433	KAZD	6,747,915	$48,749.43	$54,000.00	$51,374.71
1151	KAZQ	2,979,637	$21,526.00	$13,550.00	$17,538.00
35811	KAZT-TV	436,925	$3,156.51	$40,675.00	$21,915.75
4148	KBAK-TV	1,510,400	$10,911.69	$4,450.00	$7,680.84
16940	KBCA	463,075	$3,345.42	$4,450.00	$3,897.71
53586	KBCB	1,256,193	$9,075.20	$40,675.00	$24,875.10
69619	KBCW	8,020,424	$57,942.50	$54,000.00	$55,971.25
22685	KBDI-TV	4,197,910	$30,327.25	$40,675.00	$35,501.13
56384	KBEH	17,343,236	$125,293.94	$54,000.00	$89,646.97

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
65395	KBFD-DT	953,207	$6,886.32	$13,550.00	$10,218.16
169030	KBGS-TV	173,111	$1,250.62	$4,450.00	$2,850.31
61068	KBHE-TV	154,702	$1,117.62	$4,450.00	$2,783.81
48556	KBIM-TV	205,701	$1,486.06	$1,625.00	$1,555.53
29108	KBIN-TV	954,447	$6,895.28	$13,550.00	$10,222.64
33658	KBJR-TV	275,585	$1,990.93	$4,450.00	$3,220.46
83306	KBLN-TV	297,327	$2,148.00	$4,450.00	$3,299.00
63768	KBLR	1,964,979	$14,195.73	$27,150.00	$20,672.87
53324	KBME-TV	137,413	$992.72	$4,450.00	$2,721.36
10150	KBMT	743,009	$5,367.77	$4,450.00	$4,908.89
22121	KBMY	119,993	$866.87	$4,450.00	$2,658.44
49760	KBOI-TV	716,754	$5,178.10	$4,450.00	$4,814.05
55370	KBRR	149,869	$1,082.71	$1,625.00	$1,353.85
66414	KBSD-DT	155,012	$1,119.86	$1,625.00	$1,372.43
66415	KBSH-DT	102,781	$742.53	$1,625.00	$1,183.76
19593	KBSI	752,366	$5,435.37	$13,550.00	$9,492.68
66416	KBSL-DT	49,814	$359.87	$1,625.00	$992.44
4939	KBSV	1,352,229	$9,769.00	$40,675.00	$25,222.00
62469	KBTC-TV	2,576,886	$18,616.38	$40,675.00	$29,645.69
61214	KBTV-TV	734,008	$5,302.74	$4,450.00	$4,876.37
6669	KBTX-TV	4,048,516	$29,247.97	$1,625.00	$15,436.49
35909	KBVO	1,498,015	$10,822.21	$1,625.00	$6,223.61
58618	KBVU	135,249	$977.09	$4,450.00	$2,713.54

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
6823	KBYU-TV	2,474,099	$17,873.80	$27,150.00	$22,511.90
33756	KBZK	116,485	$841.53	$4,450.00	$2,645.77
21422	KCAL-TV	17,734,310	$128,119.20	$54,000.00	$91,059.60
11265	KCAU-TV	783,655	$5,661.41	$4,450.00	$5,055.71
14867	KCBA	3,094,778	$22,357.82	$4,450.00	$13,403.91
27507	KCBD	414,804	$2,996.70	$4,450.00	$3,723.35
9628	KCBS-TV	17,595,935	$127,119.53	$54,000.00	$90,559.76
49750	KCBY-TV	89,156	$644.10	$1,625.00	$1,134.55
33710	KCCI	1,102,130	$7,962.19	$13,550.00	$10,756.10
9640	KCCW-TV	284,280	$2,053.74	$1,625.00	$1,839.37
63158	KCDO-TV	2,798,103	$20,214.53	$40,675.00	$30,444.76
62424	KCDT	736,110	$5,317.93	$13,550.00	$9,433.97
83913	KCEB	1,163,228	$8,403.59	$13,550.00	$10,976.79
57219	KCEC	3,874,159	$27,988.35	$40,675.00	$34,331.68
10245	KCEN-TV	1,795,767	$12,973.28	$13,550.00	$13,261.64
13058	KCET	16,875,107	$121,912.00	$54,000.00	$87,956.00
18079	KCFW-TV	148,162	$1,070.38	$1,625.00	$1,347.69
132606	KCGE-DT	137,772	$995.32	$4,450.00	$2,722.66
60793	KCHF	3,001,231	$21,682.00	$13,550.00	$17,616.00
33722	KCIT	382,477	$2,763.15	$4,450.00	$3,606.58
62468	KCKA	1,078,258	$7,789.74	$40,675.00	$24,232.37
41969	KCLO-TV	138,413	$999.95	$1,625.00	$1,312.47
47903	KCNC-TV	3,794,400	$27,412.15	$40,675.00	$34,043.57

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
71586	KCNS	8,048,427	$58,144.81	$54,000.00	$56,072.40
33742	KCOP-TV	17,976,764	$129,870.78	$54,000.00	$91,935.39
19117	KCOS	1,055,922	$7,628.37	$13,550.00	$10,589.19
63165	KCOY-TV	664,655	$4,801.71	$4,450.00	$4,625.86
86208	KCPM	90,266	$652.11	$4,450.00	$2,551.06
33894	KCPQ	4,439,875	$32,075.30	$40,675.00	$36,375.15
53843	KCPT	2,594,392	$18,742.84	$27,150.00	$22,946.42
33875	KCRA-TV	10,612,483	$76,668.49	$40,675.00	$58,671.75
9719	KCRG-TV	1,180,361	$8,527.36	$13,550.00	$11,038.68
60728	KCSD-TV	287,395	$2,076.25	$4,450.00	$3,263.12
59494	KCSG	174,814	$1,262.92	$27,150.00	$14,206.46
33749	KCTS-TV	4,302,402	$31,082.14	$40,675.00	$35,878.57
41230	KCTV	2,547,456	$18,403.76	$27,150.00	$22,776.88
58605	KCVU	630,068	$4,551.84	$4,450.00	$4,500.92
10036	KCWC-DT	58,058	$419.43	$4,450.00	$2,434.72
64444	KCWE	2,460,172	$17,773.19	$27,150.00	$22,461.60
51502	KCWI-TV	1,043,811	$7,540.88	$13,550.00	$10,545.44
166511	KCWV	207,398	$1,498.32	$4,450.00	$2,974.16
24316	KCWX	3,961,044	$28,616.04	$27,150.00	$27,883.02
68713	KCWY-DT	79,948	$577.57	$4,450.00	$2,513.79
22201	KDAF	6,648,507	$48,031.27	$54,000.00	$51,015.63
33764	KDBC-TV	1,015,564	$7,336.81	$13,550.00	$10,443.40
79258	KDCK	84,614	$611.28	$13,550.00	$7,080.64

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
166332	KDCU-DT	796,251	$5,752.41	$13,550.00	$9,651.21
38375	KDEN-TV	3,376,799	$24,395.24	$40,675.00	$32,535.12
17037	KDFI	6,605,830	$47,722.95	$54,000.00	$50,861.48
33770	KDFW	6,658,976	$48,106.90	$54,000.00	$51,053.45
29102	KDIN-TV	1,129,902	$8,162.83	$13,550.00	$10,856.41
25454	KDKA-TV	3,611,796	$26,092.95	$40,675.00	$33,383.97
60740	KDKF	71,413	$515.91	$1,625.00	$1,070.46
4691	KDLH	263,422	$1,903.06	$4,450.00	$3,176.53
41975	KDLO-TV	208,354	$1,505.23	$1,625.00	$1,565.11
55379	KDLT-TV	645,391	$4,662.54	$4,450.00	$4,556.27
55375	KDLV-TV	96,873	$699.85	$1,625.00	$1,162.42
25221	KDMD	374,951	$2,708.78	$4,450.00	$3,579.39
78915	KDMI	1,183,516	$8,550.16	$13,550.00	$11,050.08
56524	KDNL-TV	2,987,219	$21,580.77	$40,675.00	$31,127.89
24518	KDOC-TV	17,564,367	$126,891.47	$54,000.00	$90,445.73
1005	KDOR-TV	1,198,362	$8,657.41	$13,550.00	$11,103.71
60736	KDRV	519,706	$3,754.55	$4,450.00	$4,102.27
61064	KDSD-TV	78,156	$564.63	$4,450.00	$2,507.31
53329	KDSE	56,738	$409.90	$4,450.00	$2,429.95
56527	KDSM-TV	1,096,220	$7,919.50	$13,550.00	$10,734.75
49326	KDTN	6,754,797	$48,799.15	$54,000.00	$51,399.57
83491	KDTP	151,142	$1,091.91	$40,675.00	$20,883.45
33778	KDTV-DT	7,921,124	$57,225.12	$54,000.00	$55,612.56

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
67910	KDTX-TV	6,593,240	$47,632.00	$54,000.00	$50,816.00
126	KDVR	3,430,717	$24,784.77	$40,675.00	$32,729.88
18084	KECI-TV	235,954	$1,704.62	$4,450.00	$3,077.31
51208	KECY-TV	399,372	$2,885.21	$4,450.00	$3,667.61
58408	KEDT	527,525	$3,811.04	$4,450.00	$4,130.52
55435	KEET	19,832	$143.27	$4,450.00	$2,296.64
41983	KELO-TV	705,364	$5,095.81	$4,450.00	$4,772.90
34440	KEMO-TV	5,097,701	$36,827.67	$54,000.00	$45,413.84
2777	KEMV	661,415	$4,778.31	$13,550.00	$9,164.15
26304	KENS	2,493,265	$18,012.27	$27,150.00	$22,581.13
63845	KENV-DT	47,220	$341.13	$27,150.00	$13,745.57
18338	KENW	2,056,047	$14,853.64	$13,550.00	$14,201.82
50591	KEPB-TV	590,806	$4,268.20	$4,450.00	$4,359.10
56029	KEPR-TV	453,259	$3,274.51	$1,625.00	$2,449.76
49324	KERA-TV	6,850,648	$49,491.61	$54,000.00	$51,745.80
40878	KERO-TV	1,285,357	$9,285.89	$4,450.00	$6,867.95
61067	KESD-TV	179,860	$1,299.38	$4,450.00	$2,874.69
25577	KESQ-TV	917,395	$6,627.60	$4,450.00	$5,538.80
50205	KETA-TV	1,788,954	$12,924.06	$27,150.00	$20,037.03
62182	KETC	3,038,502	$21,951.26	$40,675.00	$31,313.13
37101	KETD	3,098,889	$22,387.52	$40,675.00	$31,531.26
2768	KETG	468,409	$3,383.96	$13,550.00	$8,466.98
12895	KETH-TV	6,088,836	$43,988.00	$54,000.00	$48,994.00

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
55643	KETK-TV	1,031,567	$7,452.42	$4,450.00	$5,951.21
2770	KETS	1,226,637	$8,861.68	$13,550.00	$11,205.84
53903	KETV	1,355,714	$9,794.18	$13,550.00	$11,672.09
92872	KETZ	540,732	$3,906.45	$4,450.00	$4,178.22
68853	KEYC-TV	544,900	$3,936.56	$4,450.00	$4,193.28
33691	KEYE-TV	2,588,622	$18,701.16	$27,150.00	$22,925.58
60637	KEYT-TV	1,419,564	$10,255.45	$4,450.00	$7,352.73
83715	KEYU	339,348	$2,451.58	$4,450.00	$3,450.79
34406	KEZI	885,667	$6,398.39	$4,450.00	$5,424.19
34412	KFBB-TV	93,519	$675.62	$4,450.00	$2,562.81
125	KFCT	795,114	$5,744.20	$1,625.00	$3,684.60
51466	KFDA-TV	385,064	$2,781.84	$4,450.00	$3,615.92
22589	KFDM	732,665	$5,293.04	$4,450.00	$4,871.52
65370	KFDX-TV	381,703	$2,757.56	$4,450.00	$3,603.78
49264	KFFV	3,783,380	$27,332.53	$40,675.00	$34,003.77
12729	KFFX-TV	409,952	$2,961.64	$4,450.00	$3,705.82
83992	KFJX	515,708	$3,725.66	$4,450.00	$4,087.83
42122	KFMB-TV	3,947,735	$28,519.89	$27,150.00	$27,834.95
53321	KFME	406,887	$2,939.50	$4,450.00	$3,694.75
74256	KFNB	80,382	$580.71	$4,450.00	$2,515.35
21613	KFNE	54,988	$397.25	$1,625.00	$1,011.13
21612	KFNR	10,988	$79.38	$1,625.00	$852.19
66222	KFOR-TV	1,639,592	$11,845.02	$27,150.00	$19,497.51

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
33716	KFOX-TV	1,023,999	$7,397.75	$13,550.00	$10,473.87
41517	KFPH-DT	347,579	$2,511.04	$40,675.00	$21,593.02
81509	KFPX-TV	963,969	$6,964.07	$13,550.00	$10,257.03
31597	KFQX	186,473	$1,347.15	$4,450.00	$2,898.57
59013	KFRE-TV	1,721,275	$12,435.13	$13,550.00	$12,992.56
51429	KFSF-DT	7,348,828	$53,090.65	$54,000.00	$53,545.32
66469	KFSM-TV	906,728	$6,550.54	$13,550.00	$10,050.27
8620	KFSN-TV	1,747,889	$12,627.40	$13,550.00	$13,088.70
29560	KFTA-TV	818,859	$5,915.74	$13,550.00	$9,732.87
83714	KFTC	61,990	$447.84	$1,625.00	$1,036.42
60537	KFTH-DT	6,080,688	$43,929.13	$54,000.00	$48,964.57
60549	KFTR-DT	17,560,679	$126,864.82	$54,000.00	$90,432.41
61335	KFTS	88,778	$641.37	$4,450.00	$2,545.68
81441	KFTU-DT	113,876	$822.68	$13,550.00	$7,186.34
34439	KFTV-DT	1,807,731	$13,059.72	$13,550.00	$13,304.86
36917	KFVE	953,895	$6,891.29	$13,550.00	$10,220.64
592	KFVS-TV	810,574	$5,855.89	$13,550.00	$9,702.94
29015	KFWD	6,610,836	$47,759.12	$54,000.00	$50,879.56
35336	KFXA	875,538	$6,325.21	$13,550.00	$9,937.60
17625	KFXB-TV	403,839	$2,917.48	$13,550.00	$8,233.74
70917	KFXK-TV	926,496	$6,693.35	$4,450.00	$5,571.67
84453	KFXL-TV	361,632	$2,612.56	$4,450.00	$3,531.28
41427	KFYR-TV	130,881	$945.53	$4,450.00	$2,697.77

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
25685	KGAN	1,083,213	$7,825.53	$13,550.00	$10,687.77
34457	KGBT-TV	1,230,798	$8,891.74	$13,550.00	$11,220.87
52593	KGBY	270,089	$1,951.22	$4,450.00	$3,200.61
7841	KGCW	888,054	$6,415.63	$4,450.00	$5,432.81
24485	KGEB	1,186,225	$8,569.73	$13,550.00	$11,059.86
34459	KGET-TV	917,927	$6,631.44	$4,450.00	$5,540.72
53320	KGFE	128,406	$927.65	$4,450.00	$2,688.83
7894	KGIN	230,535	$1,665.47	$1,625.00	$1,645.23
83945	KGLA-DT	1,645,641	$11,888.72	$27,150.00	$19,519.36
34445	KGMB	953,398	$6,887.70	$13,550.00	$10,218.85
23302	KGMC	1,759,725	$12,712.90	$13,550.00	$13,131.45
36914	KGMD-TV	94,323	$681.42	$1,625.00	$1,153.21
36920	KGMV	193,564	$1,398.38	$1,625.00	$1,511.69
10061	KGNS-TV	267,236	$1,930.61	$4,450.00	$3,190.31
34470	KGO-TV	8,283,429	$59,842.55	$54,000.00	$56,921.27
56034	KGPE	1,699,131	$12,275.15	$13,550.00	$12,912.57
81694	KGPX-TV	698,441	$5,045.80	$13,550.00	$9,297.90
25511	KGTF	175,727	$1,269.52	$4,450.00	$2,859.76
40876	KGTV	3,960,667	$28,613.32	$27,150.00	$27,881.66
36918	KGUN-TV	1,552,522	$11,215.99	$13,550.00	$12,383.00
34874	KGW	3,058,216	$22,093.68	$40,675.00	$31,384.34
63177	KGWC-TV	80,475	$581.38	$4,450.00	$2,515.69
63162	KGWL-TV	38,125	$275.43	$1,625.00	$950.21

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
63166	KGWN-TV	469,467	$3,391.60	$4,450.00	$3,920.80
63170	KGWR-TV	51,315	$370.72	$1,625.00	$997.86
4146	KHAW-TV	95,204	$687.79	$1,625.00	$1,156.39
34846	KHBC-TV	74,884	$540.99	$1,625.00	$1,082.99
60353	KHBS	631,770	$4,564.14	$13,550.00	$9,057.07
27300	KHCE-TV	2,440,396	$17,630.32	$27,150.00	$22,390.16
26431	KHET	1,000,586	$7,228.60	$13,550.00	$10,389.30
21160	KHGI-TV	233,973	$1,690.31	$4,450.00	$3,070.15
29085	KHIN	1,082,770	$7,822.33	$13,550.00	$10,686.17
17688	KHME	181,345	$1,310.10	$4,450.00	$2,880.05
47670	KHMT	175,601	$1,268.61	$4,450.00	$2,859.30
47987	KHNE-TV	193,164	$1,395.49	$4,450.00	$2,922.74
34867	KHNL	953,398	$6,887.70	$13,550.00	$10,218.85
60354	KHOG-TV	765,360	$5,529.24	$1,625.00	$3,577.12
4144	KHON-TV	953,207	$6,886.32	$13,550.00	$10,218.16
34529	KHOU	6,137,449	$44,339.20	$54,000.00	$49,169.60
4690	KHQA-TV	318,469	$2,300.74	$4,450.00	$3,375.37
34537	KHQ-TV	822,371	$5,941.11	$13,550.00	$9,745.56
30601	KHRR	1,172,397	$8,469.83	$13,550.00	$11,009.91
34348	KHSD-TV	188,735	$1,363.49	$1,625.00	$1,494.25
24508	KHSL-TV	627,256	$4,531.53	$4,450.00	$4,490.76
69677	KHSV	2,062,231	$14,898.32	$27,150.00	$21,024.16
64544	KHVO	94,226	$680.72	$1,625.00	$1,152.86

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
23394	KIAH	6,054,519	$43,740.08	$54,000.00	$48,870.04
34564	KICU-TV	8,233,041	$59,478.53	$54,000.00	$56,739.26
56028	KIDK	305,509	$2,207.11	$4,450.00	$3,328.55
58560	KIDY	116,614	$842.46	$4,450.00	$2,646.23
53382	KIEM-TV	174,390	$1,259.86	$4,450.00	$2,854.93
66258	KIFI-TV	325,086	$2,348.54	$4,450.00	$3,399.27
10188	KIII	569,864	$4,116.91	$4,450.00	$4,283.45
29095	KIIN	1,406,741	$10,162.82	$13,550.00	$11,856.41
34527	KIKU	953,896	$6,891.30	$13,550.00	$10,220.65
63865	KILM	17,058,741	$123,238.64	$54,000.00	$88,619.32
56033	KIMA-TV	308,604	$2,229.47	$4,450.00	$3,339.73
66402	KIMT	702,390	$5,074.32	$4,450.00	$4,762.16
67089	KINC	2,002,066	$14,463.66	$27,150.00	$20,806.83
34847	KING-TV	4,063,674	$29,357.48	$40,675.00	$35,016.24
51708	KINT-TV	1,015,582	$7,336.94	$13,550.00	$10,443.47
26249	KION-TV	2,400,317	$17,340.78	$4,450.00	$10,895.39
62427	KIPT	185,247	$1,338.29	$4,450.00	$2,894.15
66781	KIRO-TV	95,004	$686.34	$40,675.00	$20,680.67
62430	KISU-TV	325,669	$2,352.75	$4,450.00	$3,401.38
12896	KITU-TV	726,204	$5,246.37	$4,450.00	$4,848.18
64548	KITV	953,207	$6,886.32	$13,550.00	$10,218.16
59255	KIVI-TV	710,819	$5,135.22	$4,450.00	$4,792.61
47285	KIXE-TV	516,801	$3,733.56	$4,450.00	$4,091.78

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
13792	KJJC	80,732	$583.24	$4,450.00	$2,516.62
14000	KJLA	17,653,508	$127,535.46	$54,000.00	$90,767.73
20015	KJNP-TV	112,245	$810.90	$4,450.00	$2,630.45
53315	KJRE	30,029	$216.94	$4,450.00	$2,333.47
59439	KJRH-TV	1,416,108	$10,230.49	$13,550.00	$11,890.24
55364	KJRR	45,515	$328.82	$1,625.00	$976.91
42640	KJRW	137,375	$992.45	$4,450.00	$2,721.22
7675	KJTL	379,594	$2,742.33	$4,450.00	$3,596.16
55031	KJTV-TV	409,786	$2,960.45	$4,450.00	$3,705.22
13814	KJUD	31,229	$225.61	$4,450.00	$2,337.80
36607	KJZZ-TV	2,388,054	$17,252.18	$27,150.00	$22,201.09
83180	KKAI	955,203	$6,900.74	$13,550.00	$10,225.37
58267	KKAP	957,869	$6,920.00	$13,550.00	$10,235.00
24766	KKCO	7,360	$53.17	$4,450.00	$2,251.59
35097	KKJB	629,939	$4,550.91	$4,450.00	$4,500.46
22644	KKPX-TV	7,902,064	$57,087.43	$54,000.00	$55,543.71
35037	KKTV	2,795,275	$20,194.10	$13,550.00	$16,872.05
35042	KLAS-TV	2,094,297	$15,129.97	$27,150.00	$21,139.99
52907	KLAX-TV	367,212	$2,652.87	$4,450.00	$3,551.44
3660	KLBK-TV	387,909	$2,802.40	$4,450.00	$3,626.20
65523	KLBY	34,288	$247.71	$1,625.00	$936.35
38430	KLCS	17,616,452	$127,267.75	$54,000.00	$90,633.87
77719	KLCW-TV	376,430	$2,719.47	$4,450.00	$3,584.73

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
51479	KLDO-TV	250,832	$1,812.10	$4,450.00	$3,131.05
664	KLEI-TV	82,902	$598.91	$1,625.00	$1,111.96
56032	KLEW-TV	134,163	$969.24	$1,625.00	$1,297.12
35059	KLFY-TV	1,355,890	$9,795.45	$4,450.00	$7,122.72
54011	KLJB	960,055	$6,935.79	$4,450.00	$5,692.90
11264	KLKN	932,757	$6,738.58	$4,450.00	$5,594.29
47975	KLNE-TV	134,180	$969.37	$4,450.00	$2,709.68
38590	KLPA-TV	428,541	$3,095.94	$4,450.00	$3,772.97
38588	KLPB-TV	762,895	$5,511.44	$4,450.00	$4,980.72
749	KLRN	2,460,985	$17,779.06	$27,150.00	$22,464.53
11951	KLRT-TV	1,171,678	$8,464.63	$13,550.00	$11,007.32
8564	KLRU	2,701,171	$19,514.25	$27,150.00	$23,332.13
8322	KLSR-TV	564,415	$4,077.54	$4,450.00	$4,263.77
31114	KLST	199,067	$1,438.13	$4,450.00	$2,944.07
24436	KLTJ	6,034,022	$43,592.00	$54,000.00	$48,796.00
38587	KLTL-TV	437,416	$3,160.05	$4,450.00	$3,805.03
38589	KLTM-TV	708,122	$5,115.74	$4,450.00	$4,782.87
38591	KLTS-TV	925,187	$6,683.89	$13,550.00	$10,116.95
68540	KLTV	1,069,690	$7,727.84	$4,450.00	$6,088.92
12913	KLUJ-TV	1,195,675	$8,638.00	$13,550.00	$11,094.00
57220	KLUZ-TV	1,079,718	$7,800.28	$27,150.00	$17,475.14
11683	KLVX	2,130,663	$15,392.69	$27,150.00	$21,271.35
82476	KLWB	1,216,359	$8,787.43	$4,450.00	$6,618.71

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
40250	KLWY	541,043	$3,908.69	$4,450.00	$4,179.35
64551	KMAU	213,060	$1,539.22	$1,625.00	$1,582.11
51499	KMAX-TV	10,644,556	$76,900.20	$40,675.00	$58,787.60
65686	KMBC-TV	2,507,895	$18,117.96	$27,150.00	$22,633.98
56079	KMBH	1,225,732	$8,855.14	$13,550.00	$11,202.57
35183	KMCB	69,357	$501.06	$1,625.00	$1,063.03
41237	KMCC	2,064,592	$14,915.37	$27,150.00	$21,032.69
42636	KMCI-TV	2,362,805	$17,069.78	$27,150.00	$22,109.89
38584	KMCT-TV	280,846	$2,028.94	$4,450.00	$3,239.47
22127	KMCY	71,797	$518.69	$1,625.00	$1,071.84
162016	KMDE	49,251	$355.81	$4,450.00	$2,402.90
26428	KMEB	263,336	$1,902.44	$13,550.00	$7,726.22
39665	KMEG	701,162	$5,065.45	$4,450.00	$4,757.73
35123	KMEX-DT	17,628,354	$127,353.73	$54,000.00	$90,676.87
40875	KMGH-TV	3,815,253	$27,562.80	$40,675.00	$34,118.90
35131	KMID	383,449	$2,770.18	$4,450.00	$3,610.09
16749	KMIR-TV	862,440	$6,230.58	$4,450.00	$5,340.29
63164	KMIZ	550,860	$3,979.62	$4,450.00	$4,214.81
53541	KMLM-DT	307,132	$2,218.84	$4,450.00	$3,334.42
52046	KMLU	711,951	$5,143.40	$4,450.00	$4,796.70
47981	KMNE-TV	61,074	$441.22	$4,450.00	$2,445.61
24753	KMOH-TV	199,885	$1,444.04	$40,675.00	$21,059.52
4326	KMOS-TV	804,745	$5,813.77	$27,150.00	$16,481.89

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
41425	KMOT	81,517	$588.91	$1,625.00	$1,106.95
70034	KMOV	3,035,077	$21,926.52	$40,675.00	$31,300.76
51488	KMPH-TV	1,725,397	$12,464.90	$13,550.00	$13,007.45
73701	KMPX	6,678,829	$48,250.33	$54,000.00	$51,125.16
44052	KMSB	1,321,614	$9,547.83	$13,550.00	$11,548.91
68883	KMSP-TV	3,832,040	$27,684.07	$40,675.00	$34,179.54
12525	KMSS-TV	1,068,120	$7,716.49	$13,550.00	$10,633.25
43095	KMTP-TV	7,618,062	$55,035.69	$54,000.00	$54,517.85
35189	KMTR	589,948	$4,262.00	$4,450.00	$4,356.00
35190	KMTV-TV	1,346,474	$9,727.43	$13,550.00	$11,638.71
77063	KMTW	761,521	$5,501.51	$13,550.00	$9,525.75
35200	KMVT	184,647	$1,333.96	$4,450.00	$2,891.98
32958	KMVU-DT	308,150	$2,226.19	$4,450.00	$3,338.09
86534	KMYA-DT	200,764	$1,450.39	$13,550.00	$7,500.20
51518	KMYS	2,273,888	$16,427.41	$27,150.00	$21,788.70
54420	KMYT-TV	1,314,238	$9,494.54	$13,550.00	$11,522.27
35822	KMYU	133,563	$964.91	$27,150.00	$14,057.45
993	KNAT-TV	3,126,660	$22,588.15	$13,550.00	$18,069.07
24749	KNAZ-TV	332,321	$2,400.81	$40,675.00	$21,537.90
47906	KNBC	17,859,647	$129,024.68	$54,000.00	$91,512.34
81464	KNBN	145,493	$1,051.10	$4,450.00	$2,750.55
9754	KNCT	2,247,670	$16,238.00	$13,550.00	$14,894.00
82611	KNDB	118,154	$853.59	$4,450.00	$2,651.79

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
82615	KNDM	72,216	$521.72	$1,625.00	$1,073.36
12395	KNDO	314,875	$2,274.77	$4,450.00	$3,362.39
12427	KNDU	475,612	$3,436.00	$1,625.00	$2,530.50
17683	KNEP	101,389	$732.47	$1,625.00	$1,178.74
48003	KNHL	277,777	$2,006.76	$4,450.00	$3,228.38
125710	KNIC-DT	2,398,296	$17,326.18	$27,150.00	$22,238.09
59363	KNIN-TV	709,494	$5,125.65	$4,450.00	$4,787.82
48525	KNLC	2,944,530	$21,272.37	$40,675.00	$30,973.69
48521	KNLJ	668,842	$4,831.96	$4,450.00	$4,640.98
84215	KNMD-TV	3,089,316	$22,318.36	$13,550.00	$17,934.18
55528	KNME-TV	1,973,522	$14,257.45	$13,550.00	$13,903.73
47707	KNMT	3,011,723	$21,757.80	$40,675.00	$31,216.40
48975	KNOE-TV	733,097	$5,296.16	$4,450.00	$4,873.08
49273	KNOP-TV	87,904	$635.05	$4,450.00	$2,542.53
10228	KNPB	618,456	$4,467.95	$4,450.00	$4,458.98
55362	KNRR	25,957	$187.52	$1,625.00	$906.26
35277	KNSD	3,541,824	$25,587.44	$27,150.00	$26,368.72
58608	KNSO	2,092,512	$15,117.08	$13,550.00	$14,333.54
35280	KNTV	8,022,662	$57,958.67	$54,000.00	$55,979.34
144	KNVA	2,412,222	$17,426.78	$27,150.00	$22,288.39
33745	KNVN	495,403	$3,578.97	$4,450.00	$4,014.49
69692	KNVO	1,241,165	$8,966.63	$13,550.00	$11,258.32
29557	KNWA-TV	815,678	$5,892.76	$1,625.00	$3,758.88

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
16950	KNXT	2,208,214	$15,952.95	$13,550.00	$14,751.48
59440	KNXV-TV	4,183,943	$30,226.35	$40,675.00	$35,450.67
59014	KOAA-TV	1,391,946	$10,055.93	$13,550.00	$11,802.97
50588	KOAB-TV	220,912	$1,595.95	$4,450.00	$3,022.98
50590	KOAC-TV	1,971,124	$14,240.13	$4,450.00	$9,345.06
58552	KOAM-TV	595,307	$4,300.72	$4,450.00	$4,375.36
53928	KOAT-TV	1,153,633	$8,334.27	$27,150.00	$17,742.14
35313	KOB	1,152,841	$8,328.55	$27,150.00	$17,739.27
35321	KOBF	201,911	$1,458.68	$1,625.00	$1,541.84
8260	KOBI	571,963	$4,132.07	$4,450.00	$4,291.04
62272	KOBR	211,709	$1,529.46	$1,625.00	$1,577.23
50170	KOCB	1,629,783	$11,774.15	$27,150.00	$19,462.08
4328	KOCE-TV	17,776,610	$128,424.79	$54,000.00	$91,212.40
84225	KOCM	1,472,744	$10,639.64	$27,150.00	$18,894.82
12508	KOCO-TV	1,716,569	$12,401.13	$27,150.00	$19,775.56
83181	KOCW	83,807	$605.45	$1,625.00	$1,115.23
18283	KODE-TV	607,048	$4,385.54	$4,450.00	$4,417.77
66195	KOED-TV	1,543,235	$11,148.90	$13,550.00	$12,349.45
50198	KOET	700,132	$5,058.01	$13,550.00	$9,304.01
51189	KOFY-TV	5,097,701	$36,827.67	$54,000.00	$45,413.84
34859	KOGG	190,829	$1,378.62	$1,625.00	$1,501.81
166534	KOHD	201,310	$1,454.34	$4,450.00	$2,952.17
35380	KOIN	2,983,136	$21,551.28	$40,675.00	$31,113.14

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
35388	KOKH-TV	1,627,116	$11,754.89	$27,150.00	$19,452.44
11910	KOKI-TV	1,366,220	$9,870.08	$13,550.00	$11,710.04
48663	KOLD-TV	988,704	$7,142.76	$13,550.00	$10,346.38
7890	KOLN	1,225,400	$8,852.74	$4,450.00	$6,651.37
63331	KOLO-TV	959,178	$6,929.46	$4,450.00	$5,689.73
28496	KOLR	1,076,144	$7,774.46	$13,550.00	$10,662.23
21656	KOMO-TV	4,123,984	$29,793.18	$40,675.00	$35,234.09
65583	KOMU-TV	565,500	$4,085.38	$4,450.00	$4,267.69
35396	KONG	4,006,008	$28,940.88	$40,675.00	$34,807.94
60675	KOOD	154,942	$1,119.36	$13,550.00	$7,334.68
50589	KOPB-TV	3,183,809	$23,001.01	$40,675.00	$31,838.01
2566	KOPX-TV	1,513,730	$10,935.74	$27,150.00	$19,042.87
64877	KORO	560,983	$4,052.75	$4,450.00	$4,251.37
6865	KOSA-TV	340,978	$2,463.35	$4,450.00	$3,456.68
34347	KOTA-TV	174,876	$1,263.37	$4,450.00	$2,856.68
8284	KOTI	298,175	$2,154.13	$1,625.00	$1,889.56
35434	KOTV-DT	49,496	$357.58	$13,550.00	$6,953.79
56550	KOVR	10,759,811	$77,732.85	$40,675.00	$59,203.92
51101	KOZJ	443,824	$3,206.35	$4,450.00	$3,828.17
51102	KOZK	878,058	$6,343.42	$13,550.00	$9,946.71
3659	KOZL-TV	992,495	$7,170.15	$13,550.00	$10,360.08
35455	KPAX-TV	206,895	$1,494.69	$4,450.00	$2,972.34
67868	KPAZ-TV	4,190,124	$30,271.00	$40,675.00	$35,473.00

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
6124	KPBS	3,659,165	$26,435.16	$27,150.00	$26,792.58
50044	KPBT-TV	316,720	$2,288.10	$4,450.00	$3,369.05
77452	KPCB-DT	44,703	$322.95	$4,450.00	$2,386.48
35460	KPDX	2,970,703	$21,461.45	$40,675.00	$31,068.23
12524	KPEJ-TV	368,212	$2,660.10	$4,450.00	$3,555.05
41223	KPHO-TV	4,195,073	$30,306.76	$40,675.00	$35,490.88
61551	KPIC	53,109	$383.68	$1,625.00	$1,004.34
86205	KPIF	255,766	$1,847.75	$4,450.00	$3,148.87
25452	KPIX-TV	8,340,753	$60,256.68	$54,000.00	$57,128.34
58912	KPJK	7,672,366	$55,428.00	$54,000.00	$54,714.00
166510	KPJR-TV	3,526,600	$25,477.46	$40,675.00	$33,076.23
13994	KPLC	1,406,085	$10,158.08	$4,450.00	$7,304.04
41964	KPLO-TV	55,827	$403.31	$1,625.00	$1,014.16
35417	KPLR-TV	2,968,619	$21,446.40	$40,675.00	$31,060.70
12144	KPMR	1,731,370	$12,508.06	$4,450.00	$8,479.03
47973	KPNE-TV	106,517	$769.52	$4,450.00	$2,609.76
35486	KPNX	4,216,950	$30,464.80	$40,675.00	$35,569.90
77512	KPNZ	2,394,311	$17,297.39	$27,150.00	$22,223.69
73998	KPOB-TV	144,525	$1,044.10	$1,625.00	$1,334.55
26655	KPPX-TV	4,186,998	$30,248.42	$40,675.00	$35,461.71
53117	KPRC-TV	6,099,422	$44,064.48	$54,000.00	$49,032.24
48660	KPRY-TV	42,521	$307.19	$1,625.00	$966.09
61071	KPSD-TV	33,728	$243.66	$4,450.00	$2,346.83

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
53544	KPTB-DT	336,622	$2,431.88	$4,450.00	$3,440.94
81445	KPTF-DT	98,354	$710.55	$4,450.00	$2,580.27
77451	KPTH	583,937	$4,218.58	$4,450.00	$4,334.29
51491	KPTM	1,388,670	$10,032.26	$13,550.00	$11,791.13
33345	KPTS	873,526	$6,310.68	$13,550.00	$9,930.34
50633	KPTV	2,998,460	$21,661.98	$40,675.00	$31,168.49
82575	KPTW	94,216	$680.65	$4,450.00	$2,565.33
1270	KPVI-DT	271,379	$1,960.54	$4,450.00	$3,205.27
58835	KPXB-TV	6,062,472	$43,797.53	$54,000.00	$48,898.77
68695	KPXC-TV	3,399,664	$24,560.43	$40,675.00	$32,617.71
68834	KPXD-TV	6,603,994	$47,709.69	$54,000.00	$50,854.84
33337	KPXE-TV	2,437,178	$17,607.07	$27,150.00	$22,378.54
5801	KPXG-TV	3,026,219	$21,862.52	$40,675.00	$31,268.76
81507	KPXJ	1,026,423	$7,415.26	$13,550.00	$10,482.63
61173	KPXL-TV	2,257,007	$16,305.45	$27,150.00	$21,727.73
35907	KPXM-TV	3,507,312	$25,338.12	$40,675.00	$33,006.56
58978	KPXN-TV	17,058,741	$123,238.64	$54,000.00	$88,619.32
77483	KPXO-TV	959,493	$6,931.73	$13,550.00	$10,240.87
21156	KPXR-TV	828,915	$5,988.39	$13,550.00	$9,769.19
10242	KQCA	9,931,378	$71,747.94	$40,675.00	$56,211.47
41430	KQCD-TV	35,623	$257.35	$1,625.00	$941.18
18287	KQCK	3,220,160	$23,263.62	$40,675.00	$31,969.31
78322	KQCW-DT	1,128,198	$8,150.52	$13,550.00	$10,850.26

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
35525	KQDS-TV	305,747	$2,208.83	$4,450.00	$3,329.41
35500	KQED	8,195,318	$59,206.00	$54,000.00	$56,603.00
35663	KQEH	7,967,820	$57,562.47	$54,000.00	$55,781.24
8214	KQET	2,981,022	$21,536.00	$4,450.00	$12,993.00
5471	KQIN	610,213	$4,408.40	$4,450.00	$4,429.20
17686	KQME	188,783	$1,363.84	$1,625.00	$1,494.42
61063	KQSD-TV	46,368	$334.98	$4,450.00	$2,392.49
8378	KQSL	371,769	$2,685.80	$54,000.00	$28,342.90
20427	KQTV	1,494,987	$10,800.34	$4,450.00	$7,625.17
78921	KQUP	738,542	$5,335.50	$13,550.00	$9,442.75
306	KRBC-TV	229,395	$1,657.23	$4,450.00	$3,053.62
166319	KRBK	983,888	$7,107.97	$13,550.00	$10,328.98
22161	KRCA	17,791,505	$128,532.40	$54,000.00	$91,266.20
57945	KRCB	5,320,049	$38,434.00	$54,000.00	$46,217.00
41110	KRCG	684,989	$4,948.61	$4,450.00	$4,699.31
8291	KRCR-TV	485,749	$3,509.23	$4,450.00	$3,979.62
10192	KRCW-TV	2,966,577	$21,431.65	$40,675.00	$31,053.32
49134	KRDK-TV	349,941	$2,528.10	$4,450.00	$3,489.05
52579	KRDO-TV	2,622,603	$18,946.65	$13,550.00	$16,248.33
70578	KREG-TV	149,306	$1,078.64	$1,625.00	$1,351.82
34868	KREM	817,619	$5,906.78	$13,550.00	$9,728.39
51493	KREN-TV	810,039	$5,852.02	$4,450.00	$5,151.01
70596	KREX-TV	145,700	$1,052.59	$4,450.00	$2,751.30

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
70579	KREY-TV	74,963	$541.56	$1,625.00	$1,083.28
48589	KREZ-TV	148,079	$1,069.78	$1,625.00	$1,347.39
43328	KRGV-TV	1,247,057	$9,009.20	$13,550.00	$11,279.60
82698	KRII	133,840	$966.91	$1,625.00	$1,295.95
29114	KRIN	990,839	$7,158.19	$13,550.00	$10,354.09
25559	KRIS-TV	561,825	$4,058.83	$4,450.00	$4,254.42
22204	KRIV	6,078,936	$43,916.48	$54,000.00	$48,958.24
14040	KRMA-TV	3,769,257	$27,230.50	$40,675.00	$33,952.75
14042	KRMJ	187,936	$1,357.72	$4,450.00	$2,903.86
20476	KRMT	3,063,342	$22,130.72	$40,675.00	$31,402.86
84224	KRMU	2,054,304	$14,841.05	$13,550.00	$14,195.53
20373	KRMZ	160,871	$1,162.19	$40,675.00	$20,918.60
47971	KRNE-TV	172,051	$1,242.96	$40,675.00	$20,958.98
60307	KRNV-DT	981,687	$7,092.07	$4,450.00	$5,771.03
65526	KRON-TV	8,050,508	$58,159.84	$54,000.00	$56,079.92
53539	KRPV-DT	2,034,973	$14,701.40	$13,550.00	$14,125.70
48575	KRQE	1,158,673	$8,370.68	$27,150.00	$17,760.34
57431	KRSU-TV	1,038,651	$7,503.60	$13,550.00	$10,526.80
82613	KRTN-TV	96,062	$693.99	$1,625.00	$1,159.49
35567	KRTV	92,687	$669.61	$4,450.00	$2,559.80
84157	KRWB-TV	111,538	$805.79	$1,625.00	$1,215.40
35585	KRWF	85,596	$618.38	$1,625.00	$1,121.69
55516	KRWG-TV	936,018	$6,762.14	$13,550.00	$10,156.07

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
48360	KRXI-TV	569,533	$4,114.52	$4,450.00	$4,282.26
307	KSAN-TV	135,063	$975.74	$1,625.00	$1,300.37
11911	KSAS-TV	752,513	$5,436.43	$13,550.00	$9,493.22
53118	KSAT-TV	2,530,706	$18,282.75	$27,150.00	$22,716.38
35584	KSAX	359,400	$2,596.44	$1,625.00	$2,110.72
35587	KSAZ-TV	4,207,660	$30,397.69	$40,675.00	$35,536.34
38214	KSBI	1,577,231	$11,394.50	$27,150.00	$19,272.25
19653	KSBW	5,083,461	$36,724.80	$4,450.00	$20,587.40
19654	KSBY	535,029	$3,865.25	$4,450.00	$4,157.62
82910	KSCC	502,915	$3,633.24	$4,450.00	$4,041.62
10202	KSCE	1,056,574	$7,633.08	$13,550.00	$10,591.54
35608	KSCI	17,447,903	$126,050.09	$54,000.00	$90,025.04
72348	KSCW-DT	915,691	$6,615.29	$13,550.00	$10,082.64
46981	KSDK	2,986,764	$21,577.49	$40,675.00	$31,126.24
35594	KSEE	1,749,448	$12,638.66	$13,550.00	$13,094.33
48658	KSFY-TV	670,536	$4,844.20	$4,450.00	$4,647.10
17680	KSGW-TV	62,178	$449.20	$1,625.00	$1,037.10
59444	KSHB-TV	2,361,771	$17,062.31	$27,150.00	$22,106.15
73706	KSHV-TV	937,203	$6,770.70	$13,550.00	$10,160.35
29096	KSIN-TV	353,985	$2,557.32	$4,450.00	$3,503.66
35606	KSKN	731,818	$5,286.92	$13,550.00	$9,418.46
70482	KSLA	1,009,108	$7,290.17	$13,550.00	$10,420.08
6359	KSL-TV	2,390,708	$17,271.36	$27,150.00	$22,210.68

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
71558	KSMN	334,655	$2,417.67	$4,450.00	$3,433.84
33336	KSMO-TV	2,401,134	$17,346.68	$27,150.00	$22,248.34
28510	KSMQ-TV	538,233	$3,888.39	$4,450.00	$4,169.20
35611	KSMS-TV	1,251,045	$9,038.01	$4,450.00	$6,744.01
21161	KSNB-TV	658,560	$4,757.68	$4,450.00	$4,603.84
72359	KSNC	174,135	$1,258.02	$1,625.00	$1,441.51
67766	KSNF	500,881	$3,618.55	$4,450.00	$4,034.27
72361	KSNG	145,058	$1,047.95	$1,625.00	$1,336.48
72362	KSNK	48,715	$351.94	$1,625.00	$988.47
67335	KSNT	622,818	$4,499.47	$4,450.00	$4,474.73
10179	KSNV	33,709	$243.53	$27,150.00	$13,696.76
72358	KSNW	789,136	$5,701.01	$13,550.00	$9,625.50
61956	KSPS-TV	820,002	$5,924.00	$13,550.00	$9,737.00
52953	KSPX-TV	6,745,180	$48,729.67	$40,675.00	$44,702.33
166546	KSQA	382,328	$2,762.08	$4,450.00	$3,606.04
53313	KSRE	86,434	$624.43	$4,450.00	$2,537.22
35843	KSTC-TV	3,796,912	$27,430.29	$40,675.00	$34,052.65
63182	KSTF	51,317	$370.73	$1,625.00	$997.87
28010	KSTP-TV	3,788,898	$27,372.40	$40,675.00	$34,023.70
60534	KSTR-DT	6,617,736	$47,808.97	$54,000.00	$50,904.48
64987	KSTS	7,645,340	$55,232.76	$54,000.00	$54,616.38
22215	KSTU	2,384,996	$17,230.09	$27,150.00	$22,190.05
23428	KSTW	4,265,956	$30,818.84	$40,675.00	$35,746.92

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
5243	KSVI	175,390	$1,267.08	$4,450.00	$2,858.54
58827	KSWB-TV	3,787,157	$27,359.82	$27,150.00	$27,254.91
60683	KSWK	120,538	$870.81	$13,550.00	$7,210.41
35645	KSWO-TV	483,132	$3,490.32	$4,450.00	$3,970.16
33639	KSWT	396,278	$2,862.86	$4,450.00	$3,656.43
61350	KSYS	519,076	$3,750.00	$4,450.00	$4,100.00
59988	KTAB-TV	270,967	$1,957.57	$4,450.00	$3,203.78
999	KTAJ-TV	5,572,499	$40,257.79	$4,450.00	$22,353.89
35648	KTAL-TV	1,110,819	$8,024.97	$13,550.00	$10,787.48
12930	KTAS	471,882	$3,409.05	$4,450.00	$3,929.52
81458	KTAZ	4,176,236	$30,170.67	$40,675.00	$35,422.83
35649	KTBC	3,242,215	$23,422.96	$27,150.00	$25,286.48
67884	KTBN-TV	17,965,242	$129,787.54	$54,000.00	$91,893.77
67999	KTBO-TV	1,585,190	$11,452.00	$27,150.00	$19,301.00
35652	KTBS-TV	1,163,228	$8,403.59	$13,550.00	$10,976.79
28324	KTBU	6,076,521	$43,899.03	$54,000.00	$48,949.51
67950	KTBW-TV	4,202,028	$30,357.00	$40,675.00	$35,516.00
35655	KTBY	348,080	$2,514.66	$4,450.00	$3,482.33
68594	KTCA-TV	3,818,455	$27,585.93	$40,675.00	$34,130.47
68597	KTCI-TV	3,731,184	$26,955.45	$40,675.00	$33,815.23
35187	KTCW	100,392	$725.27	$4,450.00	$2,587.63
36916	KTDO	1,015,338	$7,335.18	$13,550.00	$10,442.59
2769	KTEJ	433,592	$3,132.43	$4,450.00	$3,791.21

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
83707	KTEL-TV	53,423	$385.95	$1,625.00	$1,005.47
35666	KTEN	566,422	$4,092.04	$4,450.00	$4,271.02
24514	KTFD-TV	3,265,713	$23,592.72	$40,675.00	$32,133.86
35512	KTFF-DT	2,162,454	$15,622.37	$13,550.00	$14,586.18
20871	KTFK-DT	6,969,307	$50,348.85	$40,675.00	$45,511.92
68753	KTFN	1,015,088	$7,333.37	$13,550.00	$10,441.69
35084	KTFQ-TV	1,136,300	$8,209.05	$27,150.00	$17,679.53
29232	KTGM	159,358	$1,151.26	$4,450.00	$2,800.63
2787	KTHV	1,284,362	$9,278.71	$13,550.00	$11,414.35
29100	KTIN	322,622	$2,330.74	$13,550.00	$7,940.37
66170	KTIV	688,477	$4,973.81	$4,450.00	$4,711.91
49397	KTKA-TV	567,958	$4,103.14	$4,450.00	$4,276.57
35670	KTLA	17,994,407	$129,998.24	$54,000.00	$91,999.12
62354	KTLM	373,084	$2,695.30	$13,550.00	$8,122.65
49153	KTLN-TV	5,209,087	$37,632.37	$54,000.00	$45,816.18
64984	KTMD	6,074,240	$43,882.55	$54,000.00	$48,941.28
14675	KTMF	187,251	$1,352.77	$4,450.00	$2,901.39
10177	KTMW	2,261,671	$16,339.15	$27,150.00	$21,744.57
21533	KTNC-TV	8,048,427	$58,144.81	$54,000.00	$56,072.40
47996	KTNE-TV	224,919	$1,624.90	$40,675.00	$21,149.95
60519	KTNL-TV	8,642	$62.43	$4,450.00	$2,256.22
74100	KTNV-TV	2,094,506	$15,131.48	$27,150.00	$21,140.74
71023	KTNW	382,507	$2,763.37	$4,450.00	$3,606.69

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
8651	KTOO-TV	31,283	$226.00	$4,450.00	$2,338.00
7078	KTPX-TV	1,066,196	$7,702.59	$13,550.00	$10,626.30
68541	KTRE	441,879	$3,192.30	$1,625.00	$2,408.65
35675	KTRK-TV	6,114,259	$44,171.66	$54,000.00	$49,085.83
28230	KTRV-TV	714,833	$5,164.22	$4,450.00	$4,807.11
69170	KTSC	3,166,062	$22,872.80	$13,550.00	$18,211.40
61066	KTSD-TV	97,487	$704.28	$4,450.00	$2,577.14
37511	KTSF	7,921,124	$57,225.12	$54,000.00	$55,612.56
67760	KTSM-TV	1,015,348	$7,335.25	$13,550.00	$10,442.62
35678	KTTC	815,213	$5,889.40	$4,450.00	$5,169.70
28501	KTTM	76,133	$550.01	$1,625.00	$1,087.51
11908	KTTU	1,324,801	$9,570.85	$13,550.00	$11,560.43
22208	KTTV	17,952,596	$129,696.18	$54,000.00	$91,848.09
28521	KTTW	329,557	$2,380.84	$4,450.00	$3,415.42
65355	KTTZ-TV	394,082	$2,846.99	$4,450.00	$3,648.50
35685	KTUL	1,416,959	$10,236.63	$13,550.00	$11,893.32
10173	KTUU-TV	380,240	$2,746.99	$4,450.00	$3,598.50
77480	KTUZ-TV	1,668,531	$12,054.08	$27,150.00	$19,602.04
49632	KTVA	342,517	$2,474.47	$4,450.00	$3,462.23
34858	KTVB	719,145	$5,195.37	$4,450.00	$4,822.68
31437	KTVC	137,239	$991.47	$4,450.00	$2,720.73
31437	KTVC	137,313	$992.00	$4,450.00	$2,721.00
68581	KTVD	3,845,148	$27,778.77	$40,675.00	$34,226.88

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
35692	KTVE	641,139	$4,631.82	$4,450.00	$4,540.91
49621	KTVF	68,847	$497.38	$4,450.00	$2,473.69
5290	KTVH-DT	228,832	$1,653.17	$4,450.00	$3,051.58
35693	KTVI	2,979,889	$21,527.82	$40,675.00	$31,101.41
40993	KTVK	4,184,825	$30,232.72	$40,675.00	$35,453.86
22570	KTVL	415,327	$3,000.48	$4,450.00	$3,725.24
18066	KTVM-TV	277,657	$2,005.90	$1,625.00	$1,815.45
59139	KTVN	955,300	$6,901.44	$4,450.00	$5,675.72
21251	KTVO	148,780	$1,074.84	$4,450.00	$2,762.42
35694	KTVQ	179,797	$1,298.92	$4,450.00	$2,874.46
50592	KTVR	272,386	$1,967.82	$40,675.00	$21,321.41
23422	KTVT	6,912,366	$49,937.48	$54,000.00	$51,968.74
35703	KTVU	7,913,996	$57,173.63	$54,000.00	$55,586.81
35705	KTVW-DT	4,173,111	$30,148.09	$40,675.00	$35,411.55
68889	KTVX	2,381,728	$17,206.48	$27,150.00	$22,178.24
55907	KTVZ	201,828	$1,458.08	$4,450.00	$2,954.04
18286	KTWO-TV	80,426	$581.03	$4,450.00	$2,515.51
70938	KTWU	1,717,640	$12,408.87	$4,450.00	$8,429.43
51517	KTXA	6,876,811	$49,680.62	$54,000.00	$51,840.31
42359	KTXD-TV	6,546,692	$47,295.72	$54,000.00	$50,647.86
51569	KTXH	6,092,710	$44,015.99	$54,000.00	$49,007.99
10205	KTXL	7,355,088	$53,135.87	$40,675.00	$46,905.43
308	KTXS-TV	247,603	$1,788.78	$4,450.00	$3,119.39

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
69315	KUAC-TV	112,559	$813.17	$4,450.00	$2,631.58
51233	KUAM-TV	159,358	$1,151.26	$4,450.00	$2,800.63
2722	KUAS-TV	1,036,328	$7,486.82	$13,550.00	$10,518.41
2731	KUAT-TV	1,526,550	$11,028.36	$13,550.00	$12,289.18
60520	KUBD	14,858	$107.34	$4,450.00	$2,278.67
70492	KUBE-TV	6,062,183	$43,795.45	$54,000.00	$48,897.72
1136	KUCW	2,388,146	$17,252.85	$27,150.00	$22,201.42
69396	KUED	2,474,281	$17,875.12	$27,150.00	$22,512.56
69582	KUEN	2,447,809	$17,683.87	$27,150.00	$22,416.94
82576	KUES	117,438	$848.41	$27,150.00	$13,999.21
82585	KUEW	218,681	$1,579.83	$27,150.00	$14,364.92
66611	KUFM-TV	201,522	$1,455.87	$4,450.00	$2,952.93
169028	KUGF-TV	100,464	$725.79	$4,450.00	$2,587.89
68717	KUHM-TV	168,678	$1,218.59	$4,450.00	$2,834.30
69269	KUHT	6,314,732	$45,619.95	$54,000.00	$49,809.98
62382	KUID-TV	474,381	$3,427.10	$13,550.00	$8,488.55
169027	KUKL-TV	138,347	$999.47	$4,450.00	$2,724.74
35724	KULR-TV	177,242	$1,280.46	$4,450.00	$2,865.23
41429	KUMV-TV	41,607	$300.58	$1,625.00	$962.79
81447	KUNP	130,559	$943.21	$40,675.00	$20,809.10
4624	KUNS-TV	4,023,436	$29,066.79	$40,675.00	$34,870.89
86532	KUOK	28,974	$209.32	$27,150.00	$13,679.66
66589	KUON-TV	1,389,099	$10,035.36	$4,450.00	$7,242.68

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
86263	KUPB	318,914	$2,303.95	$4,450.00	$3,376.98
65535	KUPK	149,642	$1,081.07	$1,625.00	$1,353.03
27431	KUPT	87,602	$632.87	$1,625.00	$1,128.93
89714	KUPU	997,704	$7,207.78	$13,550.00	$10,378.89
57884	KUPX-TV	2,374,672	$17,155.51	$27,150.00	$22,152.75
23074	KUSA	3,803,461	$27,477.61	$40,675.00	$34,076.30
61072	KUSD-TV	474,322	$3,426.68	$4,450.00	$3,938.34
10238	KUSI-TV	3,572,818	$25,811.36	$27,150.00	$26,480.68
43567	KUSM-TV	129,706	$937.04	$4,450.00	$2,693.52
69694	KUTF	1,297,287	$9,372.08	$27,150.00	$18,261.04
81451	KUTH-DT	2,219,788	$16,036.57	$27,150.00	$21,593.28
68886	KUTP	4,191,015	$30,277.44	$40,675.00	$35,476.22
35823	KUTV	2,388,211	$17,253.32	$27,150.00	$22,201.66
63927	KUVE-DT	1,264,962	$9,138.55	$13,550.00	$11,344.28
7700	KUVI-DT	1,006,905	$7,274.25	$4,450.00	$5,862.13
35841	KUVN-DT	6,682,825	$48,279.19	$54,000.00	$51,139.60
58609	KUVS-DT	4,043,413	$29,211.11	$40,675.00	$34,943.05
49766	KVAL-TV	1,016,673	$7,344.82	$4,450.00	$5,897.41
32621	KVAW	76,153	$550.16	$27,150.00	$13,850.08
58795	KVCR-DT	17,193,003	$124,208.60	$54,000.00	$89,104.30
35846	KVCT	288,221	$2,082.21	$4,450.00	$3,266.11
10195	KVCW	33,709	$243.53	$27,150.00	$13,696.76
64969	KVDA	2,400,582	$17,342.69	$27,150.00	$22,246.35

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
19783	KVEA	17,925,427	$129,499.90	$54,000.00	$91,749.95
12523	KVEO-TV	1,244,504	$8,990.76	$13,550.00	$11,270.38
2495	KVEW	476,720	$3,444.00	$1,625.00	$2,534.50
35852	KVHP	743,167	$5,368.91	$4,450.00	$4,909.46
49832	KVIA-TV	1,015,350	$7,335.26	$13,550.00	$10,442.63
35855	KVIE	10,772,354	$77,823.46	$40,675.00	$59,249.23
35855	KVIE	10,772,290	$77,823.00	$40,675.00	$59,249.00
40450	KVIH-TV	91,912	$664.01	$1,625.00	$1,144.50
40446	KVII-TV	379,042	$2,738.34	$4,450.00	$3,594.17
61961	KVLY-TV	347,517	$2,510.59	$4,450.00	$3,480.30
16729	KVMD	6,145,526	$44,397.55	$54,000.00	$49,198.77
83825	KVME-TV	26,711	$192.97	$54,000.00	$27,096.49
25735	KVOA	1,317,956	$9,521.40	$13,550.00	$11,535.70
35862	KVOS-TV	2,019,168	$14,587.21	$40,675.00	$27,631.11
69733	KVPT	1,785,875	$12,901.82	$13,550.00	$13,225.91
55372	KVRR	356,645	$2,576.54	$4,450.00	$3,513.27
166331	KVSN-DT	2,711,724	$19,590.49	$13,550.00	$16,570.25
608	KVTH-DT	303,694	$2,194.00	$13,550.00	$7,872.00
2784	KVTJ-DT	1,466,426	$10,594.00	$4,450.00	$7,522.00
607	KVTN-DT	936,276	$6,764.00	$13,550.00	$10,157.00
35867	KVUE	2,661,290	$19,226.14	$27,150.00	$23,188.07
78910	KVUI	248,405	$1,794.57	$4,450.00	$3,122.28
35870	KVVU-TV	2,042,029	$14,752.37	$27,150.00	$20,951.19

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
36170	KVYE	396,495	$2,864.43	$4,450.00	$3,657.21
42008	KWAB-TV	50,707	$366.33	$1,625.00	$995.66
35095	KWBA-TV	1,129,524	$8,160.10	$13,550.00	$10,855.05
78314	KWBM	699,348	$5,052.35	$13,550.00	$9,301.17
27425	KWBN	953,163	$6,886.00	$13,550.00	$10,218.00
76268	KWBQ	1,148,810	$8,299.43	$27,150.00	$17,724.71
66413	KWCH-DT	883,647	$6,383.79	$13,550.00	$9,966.90
71549	KWCM-TV	252,340	$1,823.00	$40,675.00	$21,249.00
35419	KWDK	4,320,841	$31,215.35	$40,675.00	$35,945.18
42007	KWES-TV	424,862	$3,069.36	$4,450.00	$3,759.68
50194	KWET	214,489	$1,549.55	$27,150.00	$14,349.77
35881	KWEX-DT	2,365,653	$17,090.35	$27,150.00	$22,120.18
35883	KWGN-TV	3,706,495	$26,777.09	$40,675.00	$33,726.04
37099	KWHB	1,104,872	$7,982.00	$13,550.00	$10,766.00
37103	KWHD	98,002	$708.00	$13,550.00	$7,129.00
36846	KWHE	952,886	$6,884.00	$13,550.00	$10,217.00
37105	KWHM	175,045	$1,264.59	$1,625.00	$1,444.79
26231	KWHY-TV	17,343,236	$125,293.94	$54,000.00	$89,646.97
35096	KWKB	1,121,676	$8,103.40	$13,550.00	$10,826.70
162115	KWKS	81,234	$586.87	$13,550.00	$7,068.43
12522	KWKT-TV	1,010,550	$7,300.59	$13,550.00	$10,425.29
21162	KWNB-TV	91,093	$658.09	$1,625.00	$1,141.54
67347	KWOG	553,938	$4,001.85	$13,550.00	$8,775.93

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
56852	KWPX-TV	4,220,008	$30,486.89	$40,675.00	$35,580.95
6885	KWQC-TV	1,080,156	$7,803.45	$4,450.00	$6,126.72
29121	KWSD	280,675	$2,027.70	$4,450.00	$3,238.85
53318	KWSE	68,313	$493.52	$4,450.00	$2,471.76
71024	KWSU-TV	767,080	$5,541.67	$13,550.00	$9,545.83
25382	KWTV-DT	1,628,106	$11,762.04	$27,150.00	$19,456.02
35903	KWTX-TV	2,071,023	$14,961.83	$13,550.00	$14,255.92
593	KWWL	1,171,751	$8,465.16	$13,550.00	$11,007.58
84410	KWWT	293,291	$2,118.84	$4,450.00	$3,284.42
14674	KWYB	86,495	$624.87	$4,450.00	$2,537.44
10032	KWYP-DT	253,452	$1,831.03	$40,675.00	$21,253.02
35920	KXAN-TV	2,678,666	$19,351.67	$27,150.00	$23,250.84
49330	KXAS-TV	6,774,295	$48,940.01	$54,000.00	$51,470.00
24287	KXGN-TV	14,217	$102.71	$4,450.00	$2,276.35
35954	KXII	2,323,974	$16,789.25	$4,450.00	$10,619.62
55083	KXLA	17,653,508	$127,535.46	$54,000.00	$90,767.73
35959	KXLF-TV	258,100	$1,864.61	$4,450.00	$3,157.30
53847	KXLN-DT	6,078,071	$43,910.23	$54,000.00	$48,955.11
35906	KXLT-TV	348,025	$2,514.26	$4,450.00	$3,482.13
61978	KXLY-TV	784,334	$5,666.32	$13,550.00	$9,608.16
55684	KXMA-TV	32,005	$231.22	$1,625.00	$928.11
55686	KXMB-TV	142,755	$1,031.31	$1,625.00	$1,328.16
55685	KXMC-TV	97,569	$704.87	$4,450.00	$2,577.44

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
55683	KXMD-TV	37,962	$274.25	$1,625.00	$949.63
47995	KXNE-TV	313,863	$2,267.46	$4,450.00	$3,358.73
81593	KXNW	602,168	$4,350.28	$13,550.00	$8,950.14
35991	KXRM-TV	1,843,363	$13,317.13	$13,550.00	$13,433.57
1255	KXTF	135,400	$978.18	$4,450.00	$2,714.09
25048	KXTV	10,759,864	$77,733.23	$40,675.00	$59,204.11
35994	KXTX-TV	6,716,749	$48,524.27	$54,000.00	$51,262.14
62293	KXVA	185,478	$1,339.96	$4,450.00	$2,894.98
23277	KXVO	1,333,338	$9,632.53	$13,550.00	$11,591.26
9781	KXXV	1,771,620	$12,798.84	$13,550.00	$13,174.42
31870	KYAZ	6,075,053	$43,888.42	$54,000.00	$48,944.21
21488	KYES-TV	381,413	$2,755.47	$4,450.00	$3,602.73
29086	KYIN	595,590	$4,302.76	$4,450.00	$4,376.38
60384	KYLE-TV	324,032	$2,340.93	$1,625.00	$1,982.96
74449	KYMA-DT	398,681	$2,880.22	$4,450.00	$3,665.11
47974	KYNE-TV	970,932	$7,014.37	$13,550.00	$10,282.19
53820	KYOU-TV	651,334	$4,705.48	$4,450.00	$4,577.74
36003	KYTV	1,041,020	$7,520.71	$13,550.00	$10,535.36
55644	KYTX	901,751	$6,514.58	$4,450.00	$5,482.29
13815	KYUR	379,943	$2,744.85	$4,450.00	$3,597.42
5237	KYUS-TV	12,496	$90.28	$1,625.00	$857.64
33752	KYVE	315,793	$2,281.41	$4,450.00	$3,365.70
55762	KYVV-TV	67,201	$485.48	$27,150.00	$13,817.74

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
25453	KYW-TV	11,061,941	$79,915.54	$54,000.00	$66,957.77
69531	KZJL	6,007,975	$43,403.83	$54,000.00	$48,701.91
69571	KZJO	4,179,154	$30,191.75	$40,675.00	$35,433.38
61062	KZSD-TV	55,049	$397.69	$4,450.00	$2,423.85
33079	KZTV	567,635	$4,100.80	$4,450.00	$4,275.40
57292	WAAY-TV	1,530,431	$11,056.40	$13,550.00	$12,303.20
1328	WABC-TV	22,032,680	$159,172.21	$54,000.00	$106,586.11
43203	WABG-TV	393,020	$2,839.32	$4,450.00	$3,644.66
17005	WABI-TV	530,773	$3,834.50	$4,450.00	$4,142.25
16820	WABM	1,703,202	$12,304.56	$27,150.00	$19,727.28
23917	WABW-TV	1,111,402	$8,029.18	$4,450.00	$6,239.59
19199	WACH	1,317,429	$9,517.59	$13,550.00	$11,533.80
189358	WACP	9,415,263	$68,019.33	$54,000.00	$61,009.67
23930	WACS-TV	635,528	$4,591.29	$4,450.00	$4,520.64
60018	WACX	4,091,696	$29,559.92	$40,675.00	$35,117.46
361	WACY-TV	920,090	$6,647.07	$13,550.00	$10,098.53
455	WADL	4,610,514	$33,308.05	$40,675.00	$36,991.53
589	WAFB	1,857,882	$13,422.03	$13,550.00	$13,486.01
591	WAFF	1,197,068	$8,648.06	$13,550.00	$11,099.03
70689	WAGA-TV	6,000,355	$43,348.78	$54,000.00	$48,674.39
48305	WAGM-TV	64,721	$467.57	$13,550.00	$7,008.78
37809	WAGV	1,575,363	$11,381.00	$13,550.00	$12,465.50
706	WAIQ	625,575	$4,519.39	$4,450.00	$4,484.69

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701	WAKA	769,765	$5,561.07	$4,450.00	$5,005.53
4143	WALA-TV	1,320,419	$9,539.19	$13,550.00	$11,544.60
70713	WALB	773,899	$5,590.93	$4,450.00	$5,020.47
60536	WAMI-DT	5,406,932	$39,061.67	$40,675.00	$39,868.34
70852	WAND	1,400,271	$10,116.07	$13,550.00	$11,833.04
39270	WANE-TV	1,108,844	$8,010.70	$4,450.00	$6,230.35
52280	WAOE	613,812	$4,434.40	$4,450.00	$4,442.20
64546	WAOW	636,957	$4,601.61	$4,450.00	$4,525.81
52073	WAPA-TV	3,764,742	$27,197.89	$4,450.00	$15,823.94
49712	WAPT	793,621	$5,733.41	$13,550.00	$9,641.71
67792	WAQP	1,992,423	$14,394.00	$13,550.00	$13,972.00
13206	WATC-DT	5,637,032	$40,724.00	$54,000.00	$47,362.00
71082	WATE-TV	1,874,433	$13,541.60	$13,550.00	$13,545.80
22819	WATL	5,882,837	$42,499.79	$54,000.00	$48,249.89
20287	WATM-TV	937,438	$6,772.40	$4,450.00	$5,611.20
11907	WATN-TV	1,787,595	$12,914.25	$13,550.00	$13,232.12
13989	WAVE	1,846,212	$13,337.72	$27,150.00	$20,243.86
71127	WAVY-TV	2,039,358	$14,733.07	$27,150.00	$20,941.54
54938	WAWD	553,676	$3,999.96	$13,550.00	$8,774.98
65247	WAWV-TV	705,549	$5,097.15	$4,450.00	$4,773.57
12793	WAXN-TV	659,816	$4,766.75	$40,675.00	$22,720.88
65696	WBAL-TV	9,596,587	$69,329.29	$27,150.00	$48,239.64
74417	WBAY-TV	1,225,928	$8,856.56	$13,550.00	$11,203.28

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71085	WBBH-TV	2,046,391	$14,783.88	$13,550.00	$14,166.94
65204	WBBJ-TV	662,148	$4,783.60	$4,450.00	$4,616.80
9617	WBBM-TV	9,977,169	$72,078.75	$54,000.00	$63,039.38
9088	WBBZ-TV	1,269,256	$9,169.57	$13,550.00	$11,359.79
70138	WBDT	3,660,544	$26,445.12	$13,550.00	$19,997.56
51349	WBEC-TV	7,378,041	$53,301.69	$27,150.00	$40,225.85
10758	WBFF	8,509,757	$61,477.62	$27,150.00	$44,313.81
12497	WBFS-TV	5,349,613	$38,647.58	$40,675.00	$39,661.29
6568	WBGU-TV	98,032	$708.22	$13,550.00	$7,129.11
81594	WBIF	337,110	$2,435.41	$4,450.00	$3,442.70
84802	WBIH	736,501	$5,320.75	$4,450.00	$4,885.38
717	WBIQ	1,649,593	$11,917.27	$27,150.00	$19,533.63
46984	WBIR-TV	1,978,347	$14,292.31	$13,550.00	$13,921.15
67048	WBKB-TV	136,823	$988.46	$4,450.00	$2,719.23
34167	WBKI	1,983,992	$14,333.09	$4,450.00	$9,391.55
4692	WBKO	963,413	$6,960.05	$4,450.00	$5,705.03
76001	WBKP	55,655	$402.07	$1,625.00	$1,013.54
68427	WBMM	577,653	$4,173.18	$4,450.00	$4,311.59
73692	WBNA	1,699,802	$12,280.00	$27,150.00	$19,715.00
23337	WBNG-TV	1,657,643	$11,975.42	$4,450.00	$8,212.71
71217	WBNS-TV	2,847,721	$20,572.99	$27,150.00	$23,861.49
72958	WBNX-TV	3,642,304	$26,313.35	$40,675.00	$33,494.17
71218	WBOC-TV	783,438	$5,659.85	$4,450.00	$5,054.92

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71220	WBOY-TV	711,302	$5,138.71	$4,450.00	$4,794.35
60850	WBPH-TV	12,689,551	$91,674.00	$54,000.00	$72,837.00
7692	WBPX-TV	6,732,628	$48,638.99	$54,000.00	$51,319.49
5981	WBRA-TV	1,767,934	$12,772.21	$13,550.00	$13,161.10
71221	WBRC	1,852,997	$13,386.73	$27,150.00	$20,268.37
71225	WBRE-TV	3,553,761	$25,673.68	$13,550.00	$19,611.84
38616	WBRZ-TV	2,223,336	$16,062.20	$13,550.00	$14,806.10
82627	WBSF	987,886	$7,136.85	$13,550.00	$10,343.43
30826	WBTV	4,433,020	$32,025.77	$40,675.00	$36,350.39
66407	WBTW	1,975,457	$14,271.43	$4,450.00	$9,360.72
16363	WBUI	981,884	$7,093.49	$13,550.00	$10,321.75
59281	WBUP	126,472	$913.68	$4,450.00	$2,681.84
60830	WBUY-TV	1,595,921	$11,529.52	$13,550.00	$12,539.76
72971	WBXX-TV	2,142,548	$15,478.56	$13,550.00	$14,514.28
25456	WBZ-TV	7,764,394	$56,092.85	$54,000.00	$55,046.42
63153	WCAU	11,012,279	$79,556.77	$54,000.00	$66,778.38
363	WCAV	949,729	$6,861.19	$4,450.00	$5,655.60
46728	WCAX-TV	784,748	$5,669.31	$13,550.00	$9,609.65
39659	WCBB	1,005,605	$7,264.86	$13,550.00	$10,407.43
10587	WCBD-TV	1,100,127	$7,947.72	$13,550.00	$10,748.86
12477	WCBI-TV	680,511	$4,916.26	$4,450.00	$4,683.13
9610	WCBS-TV	1,752,130	$12,658.03	$54,000.00	$33,329.02
49157	WCCB	3,542,464	$25,592.07	$40,675.00	$33,133.53

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9629	WCCO-TV	3,837,442	$27,723.10	$40,675.00	$34,199.05
14050	WCCT-TV	4,776,733	$34,508.88	$27,150.00	$30,829.44
69544	WCCU	395,106	$2,854.39	$1,625.00	$2,239.70
3001	WCCV-TV	3,431,096	$24,787.50	$4,450.00	$14,618.75
23937	WCES-TV	1,112,710	$8,038.63	$4,450.00	$6,244.31
65666	WCET	3,209,437	$23,186.16	$27,150.00	$25,168.08
46755	WCFE-TV	486,657	$3,515.79	$13,550.00	$8,532.90
71280	WCHS-TV	1,352,824	$9,773.30	$13,550.00	$11,661.65
42124	WCIA	796,609	$5,755.00	$13,550.00	$9,652.50
711	WCIQ	3,575,528	$25,830.93	$54,000.00	$39,915.47
71428	WCIU-TV	9,891,328	$71,458.60	$54,000.00	$62,729.30
9015	WCIV	1,125,558	$8,131.45	$13,550.00	$10,840.72
42116	WCIX	554,002	$4,002.31	$1,625.00	$2,813.66
16993	WCJB-TV	977,492	$7,061.76	$4,450.00	$5,755.88
11125	WCLF	4,221,967	$30,501.05	$40,675.00	$35,588.03
68007	WCLJ-TV	2,258,426	$16,315.70	$27,150.00	$21,732.85
50781	WCMH-TV	2,756,260	$19,912.24	$27,150.00	$23,531.12
9917	WCML	247,281	$1,786.45	$4,450.00	$3,118.22
9908	WCMU-TV	749,228	$5,412.70	$13,550.00	$9,481.35
9922	WCMV	432,549	$3,124.89	$4,450.00	$3,787.45
9913	WCMW	120,817	$872.83	$4,450.00	$2,661.41
32326	WCNC-TV	3,822,849	$27,617.67	$40,675.00	$34,146.34
53734	WCNY-TV	1,400,211	$10,115.64	$13,550.00	$11,832.82

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
73642	WCOV-TV	862,899	$6,233.90	$4,450.00	$5,341.95
40618	WCPB	512,729	$3,704.14	$4,450.00	$4,077.07
59438	WCPO-TV	3,328,920	$24,049.35	$27,150.00	$25,599.67
10981	WCPX-TV	9,674,477	$69,891.99	$54,000.00	$61,946.00
71297	WCSC-TV	1,028,018	$7,426.78	$13,550.00	$10,488.39
39664	WCSH	1,682,955	$12,158.29	$13,550.00	$12,854.14
69479	WCTE	612,649	$4,426.00	$27,150.00	$15,788.00
18334	WCTI-TV	1,680,664	$12,141.74	$13,550.00	$12,845.87
31590	WCTV	1,049,825	$7,584.32	$4,450.00	$6,017.16
33081	WCTX	7,845,782	$56,680.82	$27,150.00	$41,915.41
65684	WCVB-TV	7,741,540	$55,927.74	$54,000.00	$54,963.87
9987	WCVE-TV	1,623,620	$11,729.63	$13,550.00	$12,639.82
83304	WCVI-TV	50,662	$366.00	$4,450.00	$2,408.00
34204	WCVN-TV	2,194,988	$15,857.40	$27,150.00	$21,503.70
9989	WCVW	1,503,274	$10,860.21	$13,550.00	$12,205.10
73042	WCWF	1,040,984	$7,520.45	$13,550.00	$10,535.23
35385	WCWG	3,434,637	$24,813.09	$27,150.00	$25,981.54
29712	WCWJ	1,582,959	$11,435.88	$27,150.00	$19,292.94
73264	WCWN	1,698,469	$12,270.37	$13,550.00	$12,910.18
2455	WCYB-TV	3,032,475	$21,907.72	$13,550.00	$17,728.86
11291	WDAF-TV	2,539,581	$18,346.87	$27,150.00	$22,748.44
21250	WDAM-TV	512,594	$3,703.17	$4,450.00	$4,076.58
22129	WDAY-TV	339,239	$2,450.79	$4,450.00	$3,450.39

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
22124	WDAZ-TV	151,720	$1,096.08	$1,625.00	$1,360.54
71325	WDBB	1,669,214	$12,059.02	$1,625.00	$6,842.01
71326	WDBD	919,098	$6,639.90	$13,550.00	$10,094.95
71329	WDBJ	1,606,844	$11,608.43	$13,550.00	$12,579.22
51567	WDCA	8,070,491	$58,304.20	$54,000.00	$56,152.10
16530	WDCQ-TV	1,310,725	$9,469.16	$13,550.00	$11,509.58
30576	WDCW	8,155,998	$58,921.94	$54,000.00	$56,460.97
54385	WDEF-TV	1,731,483	$12,508.87	$13,550.00	$13,029.44
32851	WDFX-TV	271,499	$1,961.41	$4,450.00	$3,205.70
43846	WDHN	452,377	$3,268.14	$4,450.00	$3,859.07
71338	WDIO-DT	341,506	$2,467.17	$4,450.00	$3,458.58
714	WDIQ	676,904	$4,890.20	$4,450.00	$4,670.10
53114	WDIV-TV	5,425,162	$39,193.37	$40,675.00	$39,934.19
71427	WDJT-TV	3,085,540	$22,291.08	$27,150.00	$24,720.54
39561	WDKA	621,903	$4,492.86	$13,550.00	$9,021.43
64017	WDKY-TV	1,159,126	$8,373.95	$13,550.00	$10,961.98
67893	WDLI-TV	4,165,601	$30,093.84	$40,675.00	$35,384.42
72335	WDPB	7,453,108	$53,844.00	$4,450.00	$29,147.00
83740	WDPM-DT	1,407,503	$10,168.32	$13,550.00	$11,859.16
1283	WDPN-TV	11,594,463	$83,762.68	$54,000.00	$68,881.34
6476	WDPX-TV	6,732,628	$48,638.99	$1,625.00	$25,131.99
28476	WDRB	1,987,708	$14,359.94	$27,150.00	$20,754.97
12171	WDSC-TV	3,500,825	$25,291.25	$40,675.00	$32,983.13

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
17726	WDSE	331,102	$2,392.00	$4,450.00	$3,421.00
71353	WDSI-TV	1,100,302	$7,948.99	$13,550.00	$10,749.49
71357	WDSU	1,613,076	$11,653.46	$27,150.00	$19,401.73
7908	WDTI	2,095,408	$15,138.00	$27,150.00	$21,144.00
65690	WDTN	3,660,544	$26,445.12	$13,550.00	$19,997.56
70592	WDTV	962,532	$6,953.69	$4,450.00	$5,701.84
25045	WDVM-TV	2,667,801	$19,273.18	$54,000.00	$36,636.59
4110	WDWL	2,638,293	$19,060.00	$4,450.00	$11,755.00
49421	WEAO	4,044,180	$29,216.65	$40,675.00	$34,945.83
71363	WEAR-TV	1,524,131	$11,010.88	$13,550.00	$12,280.44
7893	WEAU	991,019	$7,159.49	$4,450.00	$5,804.74
61003	WEBA-TV	639,225	$4,618.00	$4,450.00	$4,534.00
19561	WECN	2,900,511	$20,954.36	$4,450.00	$12,702.18
48666	WECT	1,134,918	$8,199.07	$4,450.00	$6,324.53
13602	WEDH	5,116,783	$36,965.53	$27,150.00	$32,057.76
13607	WEDN	3,537,683	$25,557.53	$27,150.00	$26,353.76
69338	WEDQ	5,007,024	$36,172.59	$40,675.00	$38,423.80
21808	WEDU	5,504,465	$39,766.29	$40,675.00	$40,220.64
13594	WEDW	6,165,973	$44,545.26	$54,000.00	$49,272.63
13595	WEDY	3,419,023	$24,700.28	$27,150.00	$25,925.14
24801	WEEK-TV	698,238	$5,044.33	$4,450.00	$4,747.16
6744	WEFS	3,505,321	$25,323.74	$40,675.00	$32,999.37
24215	WEHT	847,299	$6,121.20	$4,450.00	$5,285.60

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
721	WEIQ	1,087,991	$7,860.05	$13,550.00	$10,705.02
18301	WEIU-TV	504,301	$3,643.26	$13,550.00	$8,596.63
69271	WEKW-TV	1,241,805	$8,971.26	$54,000.00	$31,485.63
60825	WELF-TV	1,532,908	$11,074.29	$13,550.00	$12,312.15
26602	WELU	1,479,868	$10,691.11	$4,450.00	$7,570.56
40761	WEMT	1,727,493	$12,480.05	$13,550.00	$13,015.02
69237	WENH-TV	4,670,063	$33,738.26	$54,000.00	$43,869.13
71508	WENY-TV	543,162	$3,924.00	$4,450.00	$4,187.00
83946	WEPH	617,947	$4,464.28	$4,450.00	$4,457.14
81508	WEPX-TV	859,535	$6,209.60	$13,550.00	$9,879.80
25738	WESH	4,107,172	$29,671.73	$40,675.00	$35,173.36
65670	WETA-TV	7,607,862	$54,962.00	$54,000.00	$54,481.00
69944	WETK	669,955	$4,840.00	$13,550.00	$9,195.00
60653	WETM-TV	721,800	$5,214.55	$4,450.00	$4,832.27
18252	WETP-TV	2,087,656	$15,082.00	$13,550.00	$14,316.00
2709	WEUX	379,158	$2,739.18	$1,625.00	$2,182.09
72041	WEVV-TV	752,417	$5,435.74	$4,450.00	$4,942.87
59441	WEWS-TV	4,112,984	$29,713.71	$40,675.00	$35,194.36
72052	WEYI-TV	2,664,319	$19,248.02	$13,550.00	$16,399.01
72054	WFAA	6,957,935	$50,266.69	$54,000.00	$52,133.34
81669	WFBD	814,185	$5,881.97	$13,550.00	$9,715.99
69532	WFDC-DT	8,155,998	$58,921.94	$54,000.00	$56,460.97
10132	WFFF-TV	592,012	$4,276.91	$13,550.00	$8,913.46

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
25040	WFFT-TV	1,088,489	$7,863.65	$4,450.00	$6,156.82
11123	WFGC	2,845,970	$20,560.34	$27,150.00	$23,855.17
6554	WFGX	1,440,245	$10,404.86	$13,550.00	$11,977.43
13991	WFIE	731,856	$5,287.20	$4,450.00	$4,868.60
715	WFIQ	588,089	$4,248.57	$13,550.00	$8,899.29
64592	WFLA-TV	5,450,176	$39,374.08	$40,675.00	$40,024.54
22211	WFLD	9,957,301	$71,935.22	$54,000.00	$62,967.61
72060	WFLI-TV	1,272,913	$9,195.99	$13,550.00	$11,373.00
39736	WFLX	5,730,443	$41,398.83	$27,150.00	$34,274.42
72062	WFMJ-TV	3,504,955	$25,321.09	$4,450.00	$14,885.54
72064	WFMY-TV	4,772,783	$34,480.35	$27,150.00	$30,815.17
39884	WFMZ-TV	12,689,628	$91,674.56	$54,000.00	$72,837.28
83943	WFNA	1,283,160	$9,270.02	$13,550.00	$11,410.01
47902	WFOR-TV	5,398,266	$38,999.07	$40,675.00	$39,837.03
11909	WFOX-TV	1,602,888	$11,579.85	$27,150.00	$19,364.93
40626	WFPT	4,967,692	$35,888.44	$54,000.00	$44,944.22
21245	WFPX-TV	2,218,968	$16,030.64	$40,675.00	$28,352.82
25396	WFQX-TV	537,340	$3,881.94	$4,450.00	$4,165.97
9635	WFRV-TV	1,201,204	$8,677.94	$13,550.00	$11,113.97
53115	WFSB	4,818,020	$34,807.15	$27,150.00	$30,978.58
6093	WFSG	372,389	$2,690.28	$4,450.00	$3,570.14
21801	WFSU-TV	589,947	$4,262.00	$4,450.00	$4,356.00
11913	WFTC	3,787,177	$27,359.96	$40,675.00	$34,017.48

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
64588	WFTS-TV	5,077,970	$36,685.13	$40,675.00	$38,680.06
16788	WFTT-TV	4,523,828	$32,681.80	$40,675.00	$36,678.40
72076	WFTV	762,903	$5,511.49	$40,675.00	$23,093.25
70649	WFTX-TV	1,775,097	$12,823.96	$13,550.00	$13,186.98
60553	WFTY-DT	5,678,755	$41,025.42	$1,625.00	$21,325.21
25395	WFUP	217,655	$1,572.42	$1,625.00	$1,598.71
60555	WFUT-DT	19,992,096	$144,430.28	$54,000.00	$99,215.14
22108	WFWA	1,048,956	$7,578.05	$4,450.00	$6,014.02
9054	WFXB	1,511,681	$10,920.94	$4,450.00	$7,685.47
3228	WFXG	1,126,348	$8,137.15	$4,450.00	$6,293.58
70815	WFXL	793,637	$5,733.53	$4,450.00	$5,091.76
19707	WFXP	583,315	$4,214.08	$4,450.00	$4,332.04
24813	WFXR	1,432,348	$10,347.81	$13,550.00	$11,948.91
6463	WFXT	7,366,667	$53,219.52	$54,000.00	$53,609.76
22245	WFXU	211,721	$1,529.55	$4,450.00	$2,989.78
43424	WFXV	633,597	$4,577.34	$4,450.00	$4,513.67
25236	WFXW	274,078	$1,980.04	$4,450.00	$3,215.02
41397	WFYI	2,476,140	$17,888.55	$27,150.00	$22,519.27
53930	WGAL	7,775,662	$56,174.25	$27,150.00	$41,662.13
2708	WGBA-TV	1,170,375	$8,455.22	$13,550.00	$11,002.61
24314	WGBC	249,415	$1,801.87	$4,450.00	$3,125.93
72099	WGBH-TV	7,906,457	$57,119.16	$54,000.00	$55,559.58
12498	WGBO-DT	9,771,815	$70,595.20	$54,000.00	$62,297.60

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
72098	WGBX-TV	7,646,316	$55,239.81	$54,000.00	$54,619.90
72096	WGBY-TV	2,768,555	$20,001.06	$4,450.00	$12,225.53
72120	WGCL-TV	6,027,276	$43,543.27	$54,000.00	$48,771.63
62388	WGCU	1,445,128	$10,440.14	$13,550.00	$11,995.07
54275	WGEM-TV	333,383	$2,408.48	$4,450.00	$3,429.24
27387	WGEN-TV	43,037	$310.92	$40,675.00	$20,492.96
7727	WGFL	759,234	$5,484.99	$4,450.00	$4,967.49
25682	WGGB-TV	3,443,447	$24,876.73	$4,450.00	$14,663.37
11027	WGGN-TV	1,991,462	$14,387.06	$40,675.00	$27,531.03
9064	WGGS-TV	2,163,321	$15,628.63	$13,550.00	$14,589.31
72106	WGHP	3,774,522	$27,268.54	$27,150.00	$27,209.27
710	WGIQ	377,727	$2,728.84	$4,450.00	$3,589.42
12520	WGMB-TV	1,739,804	$12,568.99	$13,550.00	$13,059.49
25683	WGME-TV	1,308,896	$9,455.95	$13,550.00	$11,502.97
24618	WGNM	756,375	$5,464.33	$4,450.00	$4,957.17
72119	WGNO	1,641,765	$11,860.72	$27,150.00	$19,505.36
9762	WGNT	1,875,612	$13,550.11	$27,150.00	$20,350.06
72115	WGN-TV	9,942,959	$71,831.60	$54,000.00	$62,915.80
40619	WGPT	641,948	$4,637.67	$40,675.00	$22,656.34
65074	WGPX-TV	1,952,062	$14,102.42	$27,150.00	$20,626.21
64547	WGRZ	1,878,725	$13,572.60	$13,550.00	$13,561.30
63329	WGTA	1,061,654	$7,669.78	$54,000.00	$30,834.89
66285	WGTE-TV	2,252,022	$16,269.44	$13,550.00	$14,909.72

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
59279	WGTQ	95,618	$690.78	$1,625.00	$1,157.89
59280	WGTU	358,543	$2,590.25	$4,450.00	$3,520.12
23948	WGTV	6,050,159	$43,708.58	$54,000.00	$48,854.29
7623	WGTW-TV	807,797	$5,835.82	$54,000.00	$29,917.91
24783	WGVK	2,525,738	$18,246.86	$27,150.00	$22,698.43
24784	WGVU-TV	1,956,700	$14,135.92	$27,150.00	$20,642.96
21536	WGWG	986,963	$7,130.18	$13,550.00	$10,340.09
56642	WGWW	1,677,166	$12,116.47	$27,150.00	$19,633.23
58262	WGXA	759,936	$5,490.06	$4,450.00	$4,970.03
73371	WHAM-TV	1,323,785	$9,563.51	$13,550.00	$11,556.76
32327	WHAS-TV	1,982,756	$14,324.16	$27,150.00	$20,737.08
6096	WHA-TV	1,539,382	$11,121.06	$13,550.00	$12,335.53
13950	WHBF-TV	1,807,539	$13,058.33	$4,450.00	$8,754.16
12521	WHBQ-TV	1,736,335	$12,543.92	$13,550.00	$13,046.96
10894	WHBR	1,344,290	$9,711.65	$13,550.00	$11,630.82
65128	WHDF	1,266,286	$9,148.12	$13,550.00	$11,349.06
72145	WHDH	7,319,659	$52,879.92	$54,000.00	$53,439.96
83929	WHDT	5,640,324	$40,747.78	$27,150.00	$33,948.89
70041	WHEC-TV	1,322,243	$9,552.37	$13,550.00	$11,551.19
67971	WHFT-TV	5,417,359	$39,137.00	$40,675.00	$39,906.00
41458	WHIO-TV	3,896,757	$28,151.61	$13,550.00	$20,850.81
713	WHIQ	1,319,700	$9,534.00	$13,550.00	$11,542.00
61216	WHIZ-TV	910,864	$6,580.42	$4,450.00	$5,515.21

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65919	WHKY-TV	3,038,732	$21,952.92	$40,675.00	$31,313.96
18780	WHLA-TV	481,106	$3,475.69	$4,450.00	$3,962.84
48668	WHLT	484,404	$3,499.51	$1,625.00	$2,562.26
24582	WHLV-TV	3,950,046	$28,536.59	$40,675.00	$34,605.80
37102	WHMB-TV	2,847,584	$20,572.00	$27,150.00	$23,861.00
61004	WHMC	957,385	$6,916.50	$4,450.00	$5,683.25
36117	WHME-TV	1,271,807	$9,188.00	$13,550.00	$11,369.00
37106	WHNO	1,586,166	$11,459.05	$27,150.00	$19,304.52
72300	WHNS	2,549,397	$18,417.78	$27,150.00	$22,783.89
48693	WHNT-TV	1,569,885	$11,341.43	$13,550.00	$12,445.71
66221	WHO-DT	1,151,807	$8,321.08	$13,550.00	$10,935.54
6866	WHOI	679,446	$4,908.57	$4,450.00	$4,679.28
72313	WHP-TV	3,046,418	$22,008.45	$27,150.00	$24,579.22
51980	WHPX-TV	4,851,563	$35,049.48	$27,150.00	$31,099.74
73036	WHRM-TV	509,240	$3,678.94	$4,450.00	$4,064.47
25932	WHRO-TV	2,235,994	$16,153.64	$27,150.00	$21,651.82
68058	WHSG-TV	6,070,617	$43,856.38	$54,000.00	$48,928.19
4688	WHSV-TV	206,445	$1,491.43	$4,450.00	$2,970.72
9990	WHTJ	737,540	$5,328.26	$4,450.00	$4,889.13
72326	WHTM-TV	2,829,585	$20,441.97	$27,150.00	$23,795.98
11117	WHTN	1,959,226	$14,154.17	$27,150.00	$20,652.08
27772	WHUT-TV	7,819,328	$56,489.71	$54,000.00	$55,244.86
18793	WHWC-TV	994,710	$7,186.15	$40,675.00	$23,930.58

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
72338	WHYY-TV	10,379,038	$74,982.00	$54,000.00	$64,491.00
5360	WIAT	1,837,072	$13,271.69	$27,150.00	$20,210.84
63160	WIBW-TV	1,089,708	$7,872.45	$4,450.00	$6,161.23
25684	WICD	1,238,332	$8,946.17	$1,625.00	$5,285.58
25686	WICS	1,011,833	$7,309.85	$13,550.00	$10,429.93
24970	WICU-TV	716,630	$5,177.20	$4,450.00	$4,813.60
62210	WICZ-TV	976,771	$7,056.55	$4,450.00	$5,753.28
18410	WIDP	2,559,393	$18,490.00	$4,450.00	$11,470.00
26025	WIFS	1,400,358	$10,116.70	$13,550.00	$11,833.35
720	WIIQ	367,083	$2,651.94	$4,450.00	$3,550.97
68939	WILL-TV	1,220,071	$8,814.24	$13,550.00	$11,182.12
6863	WILX-TV	3,378,644	$24,408.57	$4,450.00	$14,429.29
22093	WINK-TV	1,851,105	$13,373.07	$13,550.00	$13,461.53
67787	WINM	1,015,327	$7,335.10	$4,450.00	$5,892.55
41314	WINP-TV	2,804,646	$20,261.80	$40,675.00	$30,468.40
3646	WIPB	2,048,591	$14,799.78	$27,150.00	$20,974.89
48408	WIPL	671,201	$4,849.00	$13,550.00	$9,199.50
53863	WIPM-TV	2,209,999	$15,965.85	$4,450.00	$10,207.92
53859	WIPR-TV	3,610,644	$26,084.62	$4,450.00	$15,267.31
10253	WIPX-TV	2,258,426	$16,315.70	$27,150.00	$21,732.85
39887	WIRS	3,714,677	$26,836.20	$1,625.00	$14,230.60
71336	WIRT-DT	127,001	$917.50	$1,625.00	$1,271.25
13990	WIS	2,644,715	$19,106.40	$13,550.00	$16,328.20

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
65143	WISC-TV	1,830,642	$13,225.23	$13,550.00	$13,387.62
13960	WISE-TV	1,089,665	$7,872.14	$4,450.00	$6,161.07
39269	WISH-TV	2,912,963	$21,044.32	$27,150.00	$24,097.16
65680	WISN-TV	2,938,180	$21,226.50	$27,150.00	$24,188.25
73083	WITF-TV	2,412,667	$17,430.00	$27,150.00	$22,290.00
73107	WITI	3,117,342	$22,520.83	$27,150.00	$24,835.41
594	WITN-TV	1,768,040	$12,772.97	$13,550.00	$13,161.49
61005	WITV	1,122,919	$8,112.38	$13,550.00	$10,831.19
7780	WIVB-TV	1,538,108	$11,111.86	$13,550.00	$12,330.93
11260	WIVT	856,453	$6,187.33	$4,450.00	$5,318.67
60571	WIWN	3,462,960	$25,017.70	$27,150.00	$26,083.85
62207	WIYC	526,556	$3,804.03	$4,450.00	$4,127.02
73120	WJAC-TV	379,178	$2,739.32	$4,450.00	$3,594.66
10259	WJAL	8,970,526	$64,806.39	$54,000.00	$59,403.19
50780	WJAR	6,537,858	$47,231.90	$13,550.00	$30,390.95
35576	WJAX-TV	1,630,782	$11,781.37	$27,150.00	$19,465.69
27140	WJBF	1,601,531	$11,570.05	$4,450.00	$8,010.03
73123	WJBK	5,748,623	$41,530.17	$40,675.00	$41,102.59
37174	WJCL	938,086	$6,777.08	$13,550.00	$10,163.54
73130	WJCT	1,624,502	$11,736.00	$27,150.00	$19,443.00
29719	WJEB-TV	1,607,614	$11,614.00	$27,150.00	$19,382.00
65749	WJET-TV	704,806	$5,091.78	$4,450.00	$4,770.89
7651	WJFB	1,830,804	$13,226.40	$27,150.00	$20,188.20

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
49699	WJFW-TV	277,530	$2,004.98	$4,450.00	$3,227.49
73136	WJHG-TV	856,973	$6,191.09	$4,450.00	$5,320.54
57826	WJHL-TV	2,202,140	$15,909.07	$13,550.00	$14,729.54
68519	WJKT	654,460	$4,728.06	$1,625.00	$3,176.53
1051	WJLA-TV	8,970,526	$64,806.39	$54,000.00	$59,403.19
86537	WJLP	21,384,863	$154,492.14	$54,000.00	$104,246.07
9630	WJMN-TV	160,991	$1,163.06	$1,625.00	$1,394.03
61008	WJPM-TV	623,122	$4,501.66	$4,450.00	$4,475.83
58340	WJPX	3,254,481	$23,511.57	$4,450.00	$13,980.79
21735	WJRT-TV	2,788,684	$20,146.48	$13,550.00	$16,848.24
23918	WJSP-TV	1,387,523	$10,023.98	$4,450.00	$7,236.99
41210	WJTC	1,347,474	$9,734.65	$13,550.00	$11,642.32
48667	WJTV	987,206	$7,131.94	$13,550.00	$10,340.97
73150	WJW	3,977,148	$28,732.38	$40,675.00	$34,703.69
61007	WJWJ-TV	1,050,416	$7,588.59	$13,550.00	$10,569.30
58342	WJWN-TV	1,962,885	$14,180.61	$1,625.00	$7,902.80
53116	WJXT	1,608,682	$11,621.71	$27,150.00	$19,385.86
11893	WJXX	1,618,191	$11,690.41	$27,150.00	$19,420.20
32334	WJYS	9,647,321	$69,695.81	$54,000.00	$61,847.90
25455	WJZ-TV	9,366,690	$67,668.42	$27,150.00	$47,409.21
73152	WJZY	4,054,244	$29,289.35	$40,675.00	$34,982.18
64983	WKAQ-TV	3,697,088	$26,709.13	$4,450.00	$15,579.56
6104	WKAR-TV	1,707,215	$12,333.55	$4,450.00	$8,391.78

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
34171	WKAS	545,316	$3,939.56	$13,550.00	$8,744.78
51570	WKBD-TV	4,986,483	$36,024.19	$40,675.00	$38,349.60
73153	WKBN-TV	2,068,935	$14,946.75	$4,450.00	$9,698.37
13929	WKBS-TV	5,845,770	$42,232.00	$4,450.00	$23,341.00
74424	WKBT-DT	866,325	$6,258.65	$4,450.00	$5,354.33
54176	WKBW-TV	2,033,929	$14,693.85	$13,550.00	$14,121.93
53465	WKCF	4,032,154	$29,129.77	$40,675.00	$34,902.38
73155	WKEF	3,623,762	$26,179.39	$13,550.00	$19,864.70
34177	WKGB-TV	398,316	$2,877.58	$4,450.00	$3,663.79
34196	WKHA	481,500	$3,478.53	$13,550.00	$8,514.27
34207	WKLE	878,795	$6,348.74	$13,550.00	$9,949.37
34212	WKMA-TV	468,289	$3,383.09	$4,450.00	$3,916.55
71293	WKMG-TV	3,803,492	$27,477.83	$40,675.00	$34,076.41
34195	WKMJ-TV	1,513,252	$10,932.29	$27,150.00	$19,041.14
34202	WKMR	409,893	$2,961.22	$13,550.00	$8,255.61
34174	WKMU	370,832	$2,679.03	$13,550.00	$8,114.51
42061	WKNO	1,687,393	$12,190.35	$13,550.00	$12,870.18
83931	WKNX-TV	1,684,178	$12,167.12	$13,550.00	$12,858.56
34205	WKOH	564,696	$4,079.57	$4,450.00	$4,264.79
67869	WKOI-TV	3,660,544	$26,445.12	$13,550.00	$19,997.56
34211	WKON	991,516	$7,163.08	$27,150.00	$17,156.54
18267	WKOP-TV	1,532,037	$11,068.00	$13,550.00	$12,309.00
64545	WKOW	1,918,224	$13,857.96	$13,550.00	$13,703.98

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
21432	WKPC-TV	1,576,502	$11,389.23	$27,150.00	$19,269.62
65758	WKPD	284,370	$2,054.39	$13,550.00	$7,802.20
34200	WKPI-TV	510,607	$3,688.81	$13,550.00	$8,619.41
27504	WKPT-TV	1,085,875	$7,844.76	$13,550.00	$10,697.38
58341	WKPV	2,550,642	$18,426.78	$1,625.00	$10,025.89
11289	WKRC-TV	3,281,914	$23,709.76	$27,150.00	$25,429.88
73187	WKRG-TV	1,499,595	$10,833.63	$13,550.00	$12,191.81
73188	WKRN-TV	2,410,573	$17,414.87	$27,150.00	$22,282.43
34222	WKSO-TV	628,397	$4,539.77	$13,550.00	$9,044.89
40902	WKTC	1,386,422	$10,016.02	$13,550.00	$11,783.01
60654	WKTV	1,573,503	$11,367.57	$4,450.00	$7,908.78
73195	WKYC	4,154,903	$30,016.55	$40,675.00	$35,345.78
24914	WKYT-TV	1,138,566	$8,225.42	$13,550.00	$10,887.71
71861	WKYU-TV	425,290	$3,072.45	$4,450.00	$3,761.23
34181	WKZT-TV	1,043,671	$7,539.86	$27,150.00	$17,344.93
18819	WLAE-TV	1,484,480	$10,724.43	$27,150.00	$18,937.21
36533	WLAJ	1,865,669	$13,478.28	$4,450.00	$8,964.14
2710	WLAX	513,319	$3,708.41	$4,450.00	$4,079.20
68542	WLBT	948,671	$6,853.55	$13,550.00	$10,201.77
39644	WLBZ	373,129	$2,695.62	$4,450.00	$3,572.81
69328	WLED-TV	379,636	$2,742.63	$13,550.00	$8,146.32
63046	WLEF-TV	206,125	$1,489.12	$4,450.00	$2,969.56
73203	WLEX-TV	969,543	$7,004.34	$13,550.00	$10,277.17

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
37806	WLFB	821,878	$5,937.55	$4,450.00	$5,193.78
37808	WLFG	1,655,847	$11,962.45	$13,550.00	$12,756.23
73204	WLFI-TV	2,243,009	$16,204.32	$4,450.00	$10,327.16
73205	WLFL	3,640,360	$26,299.30	$40,675.00	$33,487.15
11113	WLGA	950,018	$6,863.28	$4,450.00	$5,656.64
19777	WLII-DT	2,801,102	$20,236.19	$4,450.00	$12,343.10
37503	WLIO	1,070,641	$7,734.71	$4,450.00	$6,092.35
38336	WLIW	14,117,773	$101,992.00	$54,000.00	$77,996.00
27696	WLJC-TV	1,433,482	$10,356.00	$13,550.00	$11,953.00
71645	WLJT-DT	399,335	$2,884.94	$4,450.00	$3,667.47
53939	WLKY	1,854,829	$13,399.97	$27,150.00	$20,274.98
11033	WLLA	2,041,934	$14,751.68	$27,150.00	$20,950.84
17076	WLMB	2,754,566	$19,900.00	$13,550.00	$16,725.00
68518	WLMT	1,736,552	$12,545.49	$13,550.00	$13,047.75
22591	WLNE-TV	5,705,441	$41,218.21	$13,550.00	$27,384.11
74420	WLNS-TV	1,865,669	$13,478.28	$4,450.00	$8,964.14
73206	WLNY-TV	5,983,123	$43,224.29	$54,000.00	$48,612.14
84253	WLOO	917,998	$6,631.96	$13,550.00	$10,090.98
56537	WLOS	3,762,204	$27,179.55	$27,150.00	$27,164.77
37732	WLOV-TV	609,526	$4,403.44	$4,450.00	$4,426.72
13995	WLOX	1,182,149	$8,540.28	$4,450.00	$6,495.14
38586	WLPB-TV	1,261,150	$9,111.01	$13,550.00	$11,330.51
73189	WLPX-TV	1,021,171	$7,377.32	$13,550.00	$10,463.66

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
66358	WLRN-TV	5,571,977	$40,254.02	$40,675.00	$40,464.51
73226	WLS-TV	10,174,464	$73,504.08	$54,000.00	$63,752.04
73230	WLTV-DT	5,427,398	$39,209.53	$40,675.00	$39,942.26
37176	WLTX	1,597,791	$11,543.03	$13,550.00	$12,546.52
37179	WLTZ	689,521	$4,981.35	$4,450.00	$4,715.68
21259	WLUC-TV	92,246	$666.42	$4,450.00	$2,558.21
4150	WLUK-TV	1,251,563	$9,041.75	$13,550.00	$11,295.88
73238	WLVI	7,319,659	$52,879.92	$54,000.00	$53,439.96
36989	WLVT-TV	5,708,966	$41,243.68	$54,000.00	$47,621.84
3978	WLWC	3,281,532	$23,707.00	$13,550.00	$18,628.50
46979	WLWT	3,319,556	$23,981.70	$27,150.00	$25,565.85
54452	WLXI	2,664,793	$19,251.45	$27,150.00	$23,200.72
55350	WLYH	4,166,776	$30,102.33	$27,150.00	$28,626.16
43192	WMAB-TV	421,636	$3,046.05	$4,450.00	$3,748.03
43170	WMAE-TV	667,384	$4,821.43	$4,450.00	$4,635.71
43197	WMAH-TV	1,271,235	$9,183.87	$4,450.00	$6,816.94
43176	WMAO-TV	383,538	$2,770.82	$4,450.00	$3,610.41
47905	WMAQ-TV	9,914,395	$71,625.25	$54,000.00	$62,812.62
59442	WMAR-TV	9,203,498	$66,489.47	$27,150.00	$46,819.73
43184	WMAU-TV	683,854	$4,940.41	$13,550.00	$9,245.21
43193	WMAV-TV	1,049,865	$7,584.61	$13,550.00	$10,567.31
43169	WMAW-TV	745,921	$5,388.81	$4,450.00	$4,919.40
46991	WMAZ-TV	1,185,678	$8,565.78	$4,450.00	$6,507.89

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
66398	WMBB	935,027	$6,754.98	$4,450.00	$5,602.49
43952	WMBC-TV	18,706,132	$135,140.00	$54,000.00	$94,570.00
42121	WMBD-TV	733,039	$5,295.74	$4,450.00	$4,872.87
83969	WMBF-TV	445,363	$3,217.47	$4,450.00	$3,833.73
60829	WMCF-TV	607,047	$4,385.53	$4,450.00	$4,417.77
9739	WMCN-TV	10,379,045	$74,982.05	$54,000.00	$64,491.03
19184	WMC-TV	2,047,403	$14,791.19	$13,550.00	$14,170.60
189357	WMDE	6,384,827	$46,126.35	$54,000.00	$50,063.17
73255	WMDN	278,227	$2,010.01	$4,450.00	$3,230.01
16455	WMDT	731,931	$5,287.74	$4,450.00	$4,868.87
39656	WMEA-TV	816,311	$5,897.33	$13,550.00	$9,723.67
39648	WMEB-TV	525,603	$3,797.15	$4,450.00	$4,123.58
70537	WMEC	231,782	$1,674.48	$4,450.00	$3,062.24
39649	WMED-TV	44,330	$320.26	$4,450.00	$2,385.13
39662	WMEM-TV	113,226	$817.99	$13,550.00	$7,183.99
41893	WMFD-TV	1,561,367	$11,279.89	$40,675.00	$25,977.45
41436	WMFP	5,792,048	$41,843.89	$54,000.00	$47,921.95
61111	WMGM-TV	807,797	$5,835.82	$54,000.00	$29,917.91
43847	WMGT-TV	601,894	$4,348.30	$4,450.00	$4,399.15
73263	WMHT	1,663,984	$12,021.24	$13,550.00	$12,785.62
68545	WMLW-TV	1,822,297	$13,164.95	$27,150.00	$20,157.47
53819	WMOR-TV	5,386,517	$38,914.19	$40,675.00	$39,794.59
81503	WMOW	121,150	$875.23	$1,625.00	$1,250.12

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
65944	WMPB	6,575,728	$47,505.48	$27,150.00	$37,327.74
43168	WMPN-TV	897,763	$6,485.77	$13,550.00	$10,017.89
65942	WMPT	8,031,635	$58,023.49	$27,150.00	$42,586.75
60827	WMPV-TV	1,437,137	$10,382.41	$13,550.00	$11,966.20
10221	WMSN-TV	1,579,847	$11,413.40	$13,550.00	$12,481.70
2174	WMTJ	3,143,250	$22,708.00	$4,450.00	$13,579.00
6870	WMTV	1,548,616	$11,187.77	$13,550.00	$12,368.89
73288	WMTW	1,940,292	$14,017.39	$13,550.00	$13,783.69
23935	WMUM-TV	876,582	$6,332.75	$4,450.00	$5,391.38
73292	WMUR-TV	5,192,179	$37,510.22	$54,000.00	$45,755.11
42663	WMVS	3,531,348	$25,511.76	$27,150.00	$26,330.88
42665	WMVT	3,110,105	$22,468.55	$27,150.00	$24,809.27
81946	WMWC-TV	960,700	$6,940.45	$4,450.00	$5,695.23
56548	WMYA-TV	1,577,439	$11,396.00	$27,150.00	$19,273.00
74211	WMYD	5,601,422	$40,466.74	$40,675.00	$40,570.87
20624	WMYT-TV	4,054,244	$29,289.35	$40,675.00	$34,982.18
25544	WMYV	3,808,852	$27,516.55	$27,150.00	$27,333.28
73310	WNAB	2,072,197	$14,970.32	$27,150.00	$21,060.16
73311	WNAC-TV	7,310,183	$52,811.46	$13,550.00	$33,180.73
47535	WNBC	20,064,358	$144,952.33	$54,000.00	$99,476.16
83965	WNBW-DT	633,243	$4,574.78	$4,450.00	$4,512.39
72307	WNCF	667,683	$4,823.59	$4,450.00	$4,636.79
50782	WNCN	3,427,038	$24,758.19	$40,675.00	$32,716.59

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
57838	WNCT-TV	1,933,527	$13,968.51	$13,550.00	$13,759.26
41674	WNDU-TV	1,807,909	$13,061.00	$13,550.00	$13,305.50
28462	WNDY-TV	2,912,963	$21,044.32	$27,150.00	$24,097.16
71928	WNED-TV	1,405,859	$10,156.45	$13,550.00	$11,853.22
60931	WNEH	1,335,992	$9,651.70	$27,150.00	$18,400.85
41221	WNEM-TV	1,617,082	$11,682.40	$13,550.00	$12,616.20
49439	WNEO	3,151,964	$22,770.95	$40,675.00	$31,722.98
73318	WNEP-TV	73,667	$532.20	$13,550.00	$7,041.10
18795	WNET	20,826,732	$150,460.00	$54,000.00	$102,230.00
51864	WNEU	3,471,700	$25,080.84	$54,000.00	$39,540.42
23942	WNGH-TV	3,757,005	$27,141.99	$13,550.00	$20,346.00
67802	WNIN	883,399	$6,382.00	$4,450.00	$5,416.00
41671	WNIT	1,339,685	$9,678.38	$13,550.00	$11,614.19
48457	WNJB	21,605,751	$156,087.92	$54,000.00	$105,043.96
48477	WNJN	17,939,401	$129,600.85	$54,000.00	$91,800.43
48481	WNJS	7,380,857	$53,322.03	$54,000.00	$53,661.02
48465	WNJT	10,912,644	$78,836.97	$54,000.00	$66,418.48
73333	WNJU	20,064,358	$144,952.33	$54,000.00	$99,476.16
73336	WNJX-TV	1,585,248	$11,452.42	$1,625.00	$6,538.71
61217	WNKY	385,619	$2,785.85	$4,450.00	$3,617.93
71905	WNLO	1,538,108	$11,111.86	$13,550.00	$12,330.93
4318	WNMU	195,572	$1,412.88	$4,450.00	$2,931.44
73344	WNNE	792,551	$5,725.68	$1,625.00	$3,675.34

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54280	WNOL-TV	1,632,389	$11,792.98	$27,150.00	$19,471.49
71676	WNPB-TV	6,717,174	$48,527.34	$4,450.00	$26,488.67
62137	WNPI-DT	181,773	$1,313.20	$4,450.00	$2,881.60
41398	WNPT	2,346,976	$16,955.42	$27,150.00	$22,052.71
28468	WNPX-TV	2,216,062	$16,009.65	$27,150.00	$21,579.82
61009	WNSC-TV	2,072,845	$14,975.00	$40,675.00	$27,825.00
61010	WNTV	2,506,354	$18,106.82	$27,150.00	$22,628.41
16539	WNTZ-TV	338,422	$2,444.89	$1,625.00	$2,034.94
7933	WNUV	9,098,694	$65,732.32	$27,150.00	$46,441.16
9999	WNVC	7,334,453	$52,986.79	$54,000.00	$53,493.40
10019	WNVT	5,482,426	$39,607.07	$54,000.00	$46,803.53
73354	WNWO-TV	2,232,660	$16,129.56	$13,550.00	$14,839.78
136751	WNYA	1,540,430	$11,128.63	$13,550.00	$12,339.32
30303	WNYB	1,630,315	$11,778.00	$13,550.00	$12,664.00
6048	WNYE-TV	19,355,548	$139,831.62	$54,000.00	$96,915.81
34329	WNYI	1,122,828	$8,111.72	$13,550.00	$10,830.86
67784	WNYO-TV	1,539,525	$11,122.10	$13,550.00	$12,336.05
58725	WNYS-TV	1,690,696	$12,214.21	$13,550.00	$12,882.11
73363	WNYT	1,967,183	$14,211.66	$13,550.00	$13,880.83
22206	WNYW	20,307,995	$146,712.45	$54,000.00	$100,356.22
69618	WOAI-TV	2,457,441	$17,753.46	$27,150.00	$22,451.73
66804	WOAY-TV	569,330	$4,113.05	$4,450.00	$4,281.53
41225	WOFL	3,941,895	$28,477.70	$40,675.00	$34,576.35

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
70651	WOGX	1,112,408	$8,036.45	$4,450.00	$6,243.22
8661	WOI-DT	1,212,356	$8,758.51	$13,550.00	$11,154.25
39746	WOIO	3,821,233	$27,606.00	$40,675.00	$34,140.50
71725	WOLE-DT	2,896,629	$20,926.32	$4,450.00	$12,688.16
73375	WOLF-TV	3,006,606	$21,720.83	$13,550.00	$17,635.42
60963	WOLO-TV	2,635,115	$19,037.04	$13,550.00	$16,293.52
36838	WOOD-TV	2,507,053	$18,111.88	$27,150.00	$22,630.94
67602	WOPX-TV	3,826,498	$27,644.03	$40,675.00	$34,159.52
64865	WORA-TV	2,733,629	$19,748.74	$1,625.00	$10,686.87
73901	WORO-DT	3,389,413	$24,486.37	$4,450.00	$14,468.19
60357	WOST	1,193,381	$8,621.42	$4,450.00	$6,535.71
66185	WOSU-TV	2,736,028	$19,766.07	$27,150.00	$23,458.04
131	WOTF-TV	3,288,537	$23,757.60	$40,675.00	$32,216.30
10212	WOTV	2,277,566	$16,453.98	$27,150.00	$21,801.99
50147	WOUB-TV	843,275	$6,092.13	$27,150.00	$16,621.06
50141	WOUC-TV	1,333,607	$9,634.47	$27,150.00	$18,392.23
23342	WOWK-TV	1,176,043	$8,496.17	$13,550.00	$11,023.08
65528	WOWT	1,380,979	$9,976.70	$13,550.00	$11,763.35
31570	WPAN	637,347	$4,604.43	$13,550.00	$9,077.21
4190	WPBA	5,386,745	$38,915.83	$54,000.00	$46,457.92
51988	WPBF	3,190,307	$23,047.95	$27,150.00	$25,098.98
21253	WPBN-TV	411,213	$2,970.75	$4,450.00	$3,710.38
62136	WPBS-DT	261,309	$1,887.79	$4,450.00	$3,168.90

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
13456	WPBT	5,442,828	$39,321.00	$40,675.00	$39,998.00
13924	WPCB-TV	2,722,314	$19,667.00	$40,675.00	$30,171.00
64033	WPCH-TV	5,986,720	$43,250.27	$54,000.00	$48,625.14
4354	WPCT	195,270	$1,410.70	$4,450.00	$2,930.35
69880	WPCW	3,393,365	$24,514.92	$40,675.00	$32,594.96
17012	WPDE-TV	1,764,645	$12,748.45	$4,450.00	$8,599.22
52527	WPEC	5,788,448	$41,817.88	$27,150.00	$34,483.94
84088	WPFO	870,698	$6,290.24	$13,550.00	$9,920.12
54728	WPGA-TV	559,495	$4,042.00	$4,450.00	$4,246.00
60820	WPGD-TV	2,442,142	$17,642.93	$27,150.00	$22,396.47
73875	WPGH-TV	3,132,507	$22,630.39	$40,675.00	$31,652.69
2942	WPGX	425,098	$3,071.06	$4,450.00	$3,760.53
73879	WPHL-TV	10,421,216	$75,286.71	$54,000.00	$64,643.35
73881	WPIX	20,638,932	$149,103.26	$54,000.00	$101,551.63
53113	WPLG	5,587,129	$40,363.48	$40,675.00	$40,519.24
11906	WPMI-TV	1,467,869	$10,604.43	$13,550.00	$12,077.21
10213	WPMT	2,412,561	$17,429.23	$27,150.00	$22,289.62
18798	WPNE-TV	1,174,394	$8,484.26	$13,550.00	$11,017.13
73907	WPNT	3,130,920	$22,618.92	$40,675.00	$31,646.96
28480	WPPT	9,895,464	$71,488.48	$54,000.00	$62,744.24
51984	WPPX-TV	8,206,117	$59,284.02	$54,000.00	$56,642.01
47404	WPRI-TV	7,306,169	$52,782.46	$13,550.00	$33,166.23
51991	WPSD-TV	883,812	$6,384.98	$13,550.00	$9,967.49

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
12499	WPSG	10,232,988	$73,926.88	$54,000.00	$63,963.44
66219	WPSU-TV	1,068,975	$7,722.67	$4,450.00	$6,086.34
73905	WPTA	1,083,373	$7,826.69	$4,450.00	$6,138.34
25067	WPTD	3,464,943	$25,032.03	$13,550.00	$19,291.01
25065	WPTO	2,998,672	$21,663.51	$27,150.00	$24,406.76
59443	WPTV-TV	5,840,102	$42,191.05	$27,150.00	$34,670.53
57476	WPTZ	792,551	$5,725.68	$13,550.00	$9,637.84
8616	WPVI-TV	13,926,891	$100,613.00	$54,000.00	$77,306.50
48772	WPWR-TV	9,957,301	$71,935.22	$54,000.00	$62,967.61
51969	WPXA-TV	6,594,205	$47,638.97	$54,000.00	$50,819.49
71236	WPXC-TV	1,561,014	$11,277.34	$27,150.00	$19,213.67
5800	WPXD-TV	5,133,364	$37,085.32	$40,675.00	$38,880.16
37104	WPXE-TV	3,163,550	$22,854.65	$27,150.00	$25,002.33
48406	WPXG-TV	2,577,848	$18,623.33	$1,625.00	$10,124.16
73312	WPXH-TV	1,495,586	$10,804.67	$27,150.00	$18,977.33
73910	WPXI	480,916	$3,474.31	$40,675.00	$22,074.66
2325	WPXJ-TV	2,257,059	$16,305.83	$13,550.00	$14,927.91
52628	WPXK-TV	1,907,446	$13,780.09	$13,550.00	$13,665.05
21729	WPXL-TV	1,566,829	$11,319.35	$27,150.00	$19,234.68
48608	WPXM-TV	5,206,059	$37,610.49	$40,675.00	$39,142.75
73356	WPXN-TV	20,465,198	$147,848.14	$54,000.00	$100,924.07
27290	WPXP-TV	5,565,072	$40,204.13	$27,150.00	$33,677.07
50063	WPXQ-TV	3,281,532	$23,707.00	$13,550.00	$18,628.50

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
70251	WPXR-TV	1,300,747	$9,397.08	$13,550.00	$11,473.54
40861	WPXS	1,152,104	$8,323.22	$40,675.00	$24,499.11
53065	WPXT	760,491	$5,494.07	$13,550.00	$9,522.03
37971	WPXU-TV	690,613	$4,989.24	$1,625.00	$3,307.12
67077	WPXV-TV	1,905,128	$13,763.35	$27,150.00	$20,456.67
74091	WPXW-TV	8,091,469	$58,455.76	$54,000.00	$56,227.88
21726	WPXX-TV	1,562,675	$11,289.34	$13,550.00	$12,419.67
73319	WQAD-TV	1,079,594	$7,799.39	$4,450.00	$6,124.69
65130	WQCW	1,319,392	$9,531.77	$13,550.00	$11,540.89
71561	WQEC	197,811	$1,429.06	$4,450.00	$2,939.53
41315	WQED	3,270,735	$23,629.00	$40,675.00	$32,152.00
3255	WQHA	1,052,107	$7,600.81	$4,450.00	$6,025.40
60556	WQHS-DT	3,837,316	$27,722.19	$40,675.00	$34,198.59
53716	WQLN	616,054	$4,450.60	$4,450.00	$4,450.30
52075	WQMY	410,269	$2,963.93	$13,550.00	$8,256.97
64550	WQOW	369,066	$2,666.27	$1,625.00	$2,145.63
5468	WQPT-TV	609,527	$4,403.45	$4,450.00	$4,426.72
64690	WQPX-TV	1,515,992	$10,952.09	$13,550.00	$12,251.04
52408	WQRF-TV	1,326,695	$9,584.53	$4,450.00	$7,017.27
2175	WQTO	2,864,195	$20,692.00	$4,450.00	$12,571.00
8688	WRAL-TV	3,643,511	$26,322.07	$40,675.00	$33,498.53
10133	WRAY-TV	2,724,695	$19,684.20	$40,675.00	$30,179.60
64611	WRAZ	3,605,228	$26,045.50	$40,675.00	$33,360.25

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
136749	WRBJ-TV	1,072,357	$7,747.10	$13,550.00	$10,648.55
3359	WRBL	1,493,140	$10,786.99	$4,450.00	$7,618.50
57221	WRBU	2,737,188	$19,774.46	$40,675.00	$30,224.73
54940	WRBW	4,025,123	$29,078.97	$40,675.00	$34,876.99
59137	WRCB	1,587,742	$11,470.43	$13,550.00	$12,510.22
47904	WRC-TV	8,001,448	$57,805.41	$54,000.00	$55,902.71
54963	WRDC	3,624,288	$26,183.19	$40,675.00	$33,429.10
55454	WRDQ	3,931,023	$28,399.16	$40,675.00	$34,537.08
73937	WRDW-TV	1,564,584	$11,303.13	$4,450.00	$7,876.57
66174	WREG-TV	1,642,307	$11,864.63	$13,550.00	$12,707.32
61011	WRET-TV	1,664,328	$12,023.72	$27,150.00	$19,586.86
73940	WREX	2,303,027	$16,637.92	$4,450.00	$10,543.96
54443	WRFB	2,674,527	$19,321.77	$4,450.00	$11,885.88
73942	WRGB	2,886,233	$20,851.21	$13,550.00	$17,200.61
411	WRGT-TV	3,252,046	$23,493.98	$13,550.00	$18,521.99
74416	WRIC-TV	1,996,265	$14,421.75	$13,550.00	$13,985.88
61012	WRJA-TV	1,153,636	$8,334.29	$13,550.00	$10,942.15
412	WRLH-TV	1,950,292	$14,089.63	$13,550.00	$13,819.81
61013	WRLK-TV	1,254,208	$9,060.86	$13,550.00	$11,305.43
43870	WRLM	3,726,498	$26,921.60	$40,675.00	$33,798.30
74156	WRNN	19,853,836	$143,431.44	$54,000.00	$98,715.72
73964	WROC-TV	1,187,949	$8,582.18	$13,550.00	$11,066.09
159007	WRPT	109,906	$794.00	$4,450.00	$2,622.00

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
20590	WRPX-TV	2,218,968	$16,030.64	$40,675.00	$28,352.82
62009	WRSP-TV	904,190	$6,532.20	$13,550.00	$10,041.10
40877	WRTV	2,919,683	$21,092.87	$27,150.00	$24,121.43
15320	WRUA	2,905,193	$20,988.19	$4,450.00	$12,719.09
71580	WRXY-TV	1,675,181	$12,102.13	$13,550.00	$12,826.06
48662	WSAV-TV	1,000,315	$7,226.64	$13,550.00	$10,388.32
6867	WSAW-TV	652,442	$4,713.48	$4,450.00	$4,581.74
36912	WSAZ-TV	1,184,629	$8,558.20	$13,550.00	$11,054.10
56092	WSBE-TV	4,669,355	$33,733.14	$13,550.00	$23,641.57
73982	WSBK-TV	7,161,406	$51,736.64	$54,000.00	$52,868.32
72053	WSBS-TV	42,952	$310.30	$40,675.00	$20,492.65
73983	WSBT-TV	1,691,194	$12,217.81	$13,550.00	$12,883.90
23960	WSB-TV	1,504,105	$10,866.21	$54,000.00	$32,433.10
69446	WSCG	867,516	$6,267.26	$13,550.00	$9,908.63
64971	WSCV	5,465,435	$39,484.32	$40,675.00	$40,079.66
70536	WSEC	563,875	$4,073.64	$13,550.00	$8,811.82
49711	WSEE-TV	556,533	$4,020.60	$4,450.00	$4,235.30
21258	WSES	1,548,117	$11,184.17	$4,450.00	$7,817.08
73988	WSET-TV	1,569,722	$11,340.25	$13,550.00	$12,445.13
13993	WSFA	1,168,636	$8,442.66	$4,450.00	$6,446.33
11118	WSFJ-TV	2,188,828	$15,812.90	$27,150.00	$21,481.45
10203	WSFL-TV	5,316,261	$38,406.63	$40,675.00	$39,540.82
72871	WSFX-TV	928,247	$6,706.00	$4,450.00	$5,578.00

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73999	WSIL-TV	672,560	$4,858.82	$13,550.00	$9,204.41
4297	WSIU-TV	1,380,047	$9,969.97	$13,550.00	$11,759.98
74007	WSJV	1,522,499	$10,999.09	$13,550.00	$12,274.55
78908	WSKA	495,370	$3,578.74	$4,450.00	$4,014.37
74034	WSKG-TV	906,281	$6,547.31	$4,450.00	$5,498.65
76324	WSKY-TV	1,934,585	$13,976.16	$27,150.00	$20,563.08
57840	WSLS-TV	1,440,376	$10,405.81	$13,550.00	$11,977.90
21737	WSMH	2,339,224	$16,899.42	$13,550.00	$15,224.71
41232	WSMV-TV	2,447,769	$17,683.59	$27,150.00	$22,416.79
70119	WSNS-TV	9,914,395	$71,625.25	$54,000.00	$62,812.62
74070	WSOC-TV	1,119,856	$8,090.25	$40,675.00	$24,382.63
66391	WSPA-TV	3,393,072	$24,512.80	$13,550.00	$19,031.40
64352	WSPX-TV	1,106,838	$7,996.21	$13,550.00	$10,773.10
17611	WSRE	1,396,694	$10,090.23	$13,550.00	$11,820.12
63867	WSST-TV	345,428	$2,495.50	$4,450.00	$3,472.75
60341	WSTE-DT	3,723,967	$26,903.31	$4,450.00	$15,676.66
21252	WSTM-TV	1,458,931	$10,539.86	$13,550.00	$12,044.93
11204	WSTR-TV	3,252,460	$23,496.97	$27,150.00	$25,323.49
19776	WSUR-DT	3,716,312	$26,848.01	$1,625.00	$14,236.50
2370	WSVI	50,601	$365.56	$4,450.00	$2,407.78
63840	WSVN	5,588,760	$40,375.26	$40,675.00	$40,525.13
73374	WSWB	1,500,450	$10,839.80	$13,550.00	$12,194.90
28155	WSWG	363,166	$2,623.65	$4,450.00	$3,536.82

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71680	WSWP-TV	872,568	$6,303.75	$4,450.00	$5,376.88
74094	WSYM-TV	1,516,677	$10,957.03	$4,450.00	$7,703.52
73113	WSYR-TV	1,329,933	$9,607.93	$13,550.00	$11,578.96
40758	WSYT	1,878,638	$13,571.97	$13,550.00	$13,560.99
56549	WSYX	2,635,937	$19,042.98	$27,150.00	$23,096.49
65681	WTAE-TV	1,815,300	$13,114.40	$40,675.00	$26,894.70
23341	WTAJ-TV	1,080,523	$7,806.10	$4,450.00	$6,128.05
4685	WTAP-TV	472,761	$3,415.40	$4,450.00	$3,932.70
416	WTAT-TV	1,153,279	$8,331.71	$13,550.00	$10,940.86
67993	WTBY-TV	11,643,085	$84,113.94	$54,000.00	$69,056.97
29715	WTCE-TV	2,600,642	$18,788.00	$27,150.00	$22,969.00
65667	WTCI	1,246,139	$9,002.57	$13,550.00	$11,276.28
67786	WTCT	626,187	$4,523.81	$13,550.00	$9,036.90
28954	WTCV	3,254,481	$23,511.57	$4,450.00	$13,980.79
74422	WTEN	1,768,667	$12,777.50	$13,550.00	$13,163.75
9881	WTGL	3,986,743	$28,801.70	$40,675.00	$34,738.35
27245	WTGS	967,792	$6,991.69	$13,550.00	$10,270.84
70655	WTHI-TV	928,934	$6,710.96	$4,450.00	$5,580.48
70162	WTHR	2,988,174	$21,587.67	$27,150.00	$24,368.84
147	WTIC-TV	5,314,290	$38,392.39	$27,150.00	$32,771.20
26681	WTIN-TV	3,714,547	$26,835.26	$1,625.00	$14,230.13
66536	WTIU	1,218,198	$8,800.71	$27,150.00	$17,975.36
1002	WTJP-TV	2,034,256	$14,696.21	$27,150.00	$20,923.11

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4593	WTJR	348,369	$2,516.75	$4,450.00	$3,483.37
70287	WTJX-TV	148,859	$1,075.41	$4,450.00	$2,762.71
47401	WTKR	2,142,272	$15,476.56	$27,150.00	$21,313.28
82735	WTLF	349,696	$2,526.33	$4,450.00	$3,488.17
23486	WTLH	1,038,086	$7,499.52	$4,450.00	$5,974.76
67781	WTLJ	1,622,287	$11,720.00	$27,150.00	$19,435.00
65046	WTLV	1,757,600	$12,697.55	$27,150.00	$19,923.78
1222	WTLW	654,714	$4,729.90	$4,450.00	$4,589.95
74098	WTMJ-TV	3,010,678	$21,750.25	$27,150.00	$24,450.12
74109	WTNH	7,845,782	$56,680.82	$27,150.00	$41,915.41
19200	WTNZ	1,722,805	$12,446.18	$13,550.00	$12,998.09
590	WTOC-TV	993,098	$7,174.51	$13,550.00	$10,362.25
74112	WTOG	4,796,964	$34,655.04	$40,675.00	$37,665.02
4686	WTOK-TV	410,134	$2,962.96	$4,450.00	$3,706.48
13992	WTOL	4,184,020	$30,226.90	$13,550.00	$21,888.45
21254	WTOM-TV	83,379	$602.36	$1,625.00	$1,113.68
74122	WTOV-TV	3,892,886	$28,123.64	$4,450.00	$16,286.82
82574	WTPC-TV	2,254,376	$16,286.44	$27,150.00	$21,718.22
86496	WTPX-TV	255,972	$1,849.24	$4,450.00	$3,149.62
6869	WTRF-TV	2,941,511	$21,250.56	$4,450.00	$12,850.28
67798	WTSF	593,934	$4,290.80	$13,550.00	$8,920.40
11290	WTSP	116,070	$838.53	$40,675.00	$20,756.77
4108	WTTA	5,450,176	$39,374.08	$40,675.00	$40,024.54

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
74137	WTTE	2,636,341	$19,045.90	$27,150.00	$23,097.95
22207	WTTG	8,070,491	$58,304.20	$54,000.00	$56,152.10
56526	WTTK	2,817,698	$20,356.09	$1,625.00	$10,990.55
74138	WTTO	1,817,151	$13,127.77	$27,150.00	$20,138.88
56523	WTTV	2,362,145	$17,065.01	$27,150.00	$22,107.50
10802	WTTW	9,729,846	$70,292.00	$54,000.00	$62,146.00
74148	WTVA	717,035	$5,180.13	$4,450.00	$4,815.06
22590	WTVC	1,579,628	$11,411.82	$13,550.00	$12,480.91
8617	WTVD	4,012,851	$28,990.32	$40,675.00	$34,832.66
55305	WTVE	4,027,248	$29,094.33	$54,000.00	$41,547.16
36504	WTVF	1,839,337	$13,288.05	$27,150.00	$20,219.02
74150	WTVG	4,274,274	$30,878.93	$13,550.00	$22,214.47
74151	WTVH	1,350,223	$9,754.51	$13,550.00	$11,652.25
10645	WTVI	2,853,536	$20,615.00	$40,675.00	$30,645.00
63154	WTVJ	5,458,451	$39,433.86	$40,675.00	$40,054.43
595	WTVM	1,498,667	$10,826.92	$4,450.00	$7,638.46
72945	WTVO	1,409,708	$10,184.25	$4,450.00	$7,317.13
28311	WTVP	692,859	$5,005.47	$4,450.00	$4,727.73
51597	WTVQ-DT	989,180	$7,146.20	$13,550.00	$10,348.10
57832	WTVR-TV	1,808,516	$13,065.39	$13,550.00	$13,307.69
16817	WTVS	5,636,217	$40,718.11	$40,675.00	$40,696.56
68569	WTVT	5,475,385	$39,556.20	$40,675.00	$40,115.60
3661	WTVW	791,430	$5,717.58	$4,450.00	$5,083.79

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
35575	WTVX	2,962,933	$21,405.32	$27,150.00	$24,277.66
4152	WTVY	974,532	$7,040.38	$4,450.00	$5,745.19
40759	WTVZ-TV	2,156,534	$15,579.60	$27,150.00	$21,364.80
66908	WTWC-TV	1,032,942	$7,462.35	$4,450.00	$5,956.18
20426	WTWO	737,757	$5,329.83	$4,450.00	$4,889.91
81692	WTWV	1,569,037	$11,335.30	$13,550.00	$12,442.65
51568	WTXF-TV	1,477,715	$10,675.56	$54,000.00	$32,337.78
41065	WTXL-TV	1,054,514	$7,618.20	$4,450.00	$6,034.10
8532	WUAB	3,821,233	$27,606.00	$40,675.00	$34,140.50
12855	WUCF-TV	3,897,003	$28,153.39	$40,675.00	$34,414.20
36395	WUCW	3,664,480	$26,473.56	$40,675.00	$33,574.28
69440	WUFT	1,385,984	$10,012.86	$4,450.00	$7,231.43
413	WUHF	1,152,580	$8,326.66	$13,550.00	$10,938.33
8156	WUJA	2,638,293	$19,060.00	$4,450.00	$11,755.00
69080	WUNC-TV	4,146,526	$29,956.04	$40,675.00	$35,315.52
69292	WUND-TV	1,593,153	$11,509.52	$27,150.00	$19,329.76
69114	WUNE-TV	2,055,852	$14,852.24	$40,675.00	$27,763.62
69300	WUNF-TV	2,533,819	$18,305.24	$27,150.00	$22,727.62
69124	WUNG-TV	3,392,003	$24,505.08	$40,675.00	$32,590.04
60551	WUNI	7,209,571	$52,084.60	$54,000.00	$53,042.30
69332	WUNJ-TV	1,095,116	$7,911.52	$4,450.00	$6,180.76
69149	WUNK-TV	2,060,442	$14,885.39	$13,550.00	$14,217.70
69360	WUNL-TV	2,700,544	$19,509.72	$27,150.00	$23,329.86

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
69444	WUNM-TV	1,070,635	$7,734.66	$13,550.00	$10,642.33
69397	WUNP-TV	1,142,992	$8,257.40	$40,675.00	$24,466.20
69416	WUNU	1,134,634	$8,197.02	$4,450.00	$6,323.51
83822	WUNW	1,109,237	$8,013.54	$27,150.00	$17,581.77
6900	WUPA	5,946,477	$42,959.54	$54,000.00	$48,479.77
13938	WUPL	1,632,100	$11,790.89	$27,150.00	$19,470.45
10897	WUPV	1,654,049	$11,949.46	$13,550.00	$12,749.73
19190	WUPW	2,074,890	$14,989.77	$13,550.00	$14,269.89
23128	WUPX-TV	1,147,454	$8,289.63	$13,550.00	$10,919.82
65593	WUSA	8,970,526	$64,806.39	$54,000.00	$59,403.19
4301	WUSI-TV	318,589	$2,301.60	$4,450.00	$3,375.80
60552	WUTB	8,509,757	$61,477.62	$27,150.00	$44,313.81
30577	WUTF-TV	8,557,497	$61,822.52	$54,000.00	$57,911.26
57837	WUTR	526,114	$3,800.84	$4,450.00	$4,125.42
415	WUTV	1,405,230	$10,151.90	$13,550.00	$11,850.95
16517	WUVC-DT	3,528,124	$25,488.47	$40,675.00	$33,081.73
48813	WUVG-DT	2,203,405	$15,918.21	$54,000.00	$34,959.11
3072	WUVN	1,132,445	$8,181.20	$27,150.00	$17,665.60
60560	WUVP-DT	10,421,216	$75,286.71	$54,000.00	$64,643.35
9971	WUXP-TV	2,316,872	$16,737.94	$27,150.00	$21,943.97
417	WVAH-TV	1,373,707	$9,924.17	$13,550.00	$11,737.08
23947	WVAN-TV	1,021,290	$7,378.18	$13,550.00	$10,464.09
65387	WVBT	1,848,277	$13,352.64	$27,150.00	$20,251.32

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
72342	WVCY-TV	2,543,613	$18,376.00	$27,150.00	$22,763.00
60559	WVEA-TV	4,283,915	$30,948.58	$40,675.00	$35,811.79
74167	WVEC	2,179,223	$15,743.51	$27,150.00	$21,446.76
5802	WVEN-TV	3,607,540	$26,062.20	$40,675.00	$33,368.60
61573	WVEO	1,153,382	$8,332.46	$1,625.00	$4,978.73
69946	WVER	760,205	$5,492.00	$13,550.00	$9,521.00
10976	WVFX	731,193	$5,282.41	$4,450.00	$4,866.20
47929	WVIA-TV	3,131,848	$22,625.63	$13,550.00	$18,087.81
3667	WVII-TV	368,022	$2,658.73	$4,450.00	$3,554.36
70309	WVIR-TV	1,944,353	$14,046.72	$4,450.00	$9,248.36
74170	WVIT	4,963,855	$35,860.72	$27,150.00	$31,505.36
18753	WVIZ	3,638,380	$26,285.00	$40,675.00	$33,480.00
70021	WVLA-TV	1,897,179	$13,705.92	$13,550.00	$13,627.96
81750	WVLR	1,454,254	$10,506.07	$13,550.00	$12,028.03
35908	WVLT-TV	1,874,453	$13,541.74	$13,550.00	$13,545.87
74169	WVNS-TV	911,630	$6,585.95	$4,450.00	$5,517.98
11259	WVNY	721,176	$5,210.04	$13,550.00	$9,380.02
29000	WVOZ-TV	1,132,932	$8,184.72	$1,625.00	$4,904.86
71657	WVPB-TV	821,794	$5,936.94	$13,550.00	$9,743.47
60111	WVPT	944,751	$6,825.23	$4,450.00	$5,637.62
70491	WVPX-TV	4,165,601	$30,093.84	$40,675.00	$35,384.42
66378	WVPY	1,809,181	$13,070.19	$54,000.00	$33,535.10
67190	WVSN	2,870,008	$20,734.00	$4,450.00	$12,592.00

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
69943	WVTA	1,232,495	$8,904.00	$13,550.00	$11,227.00
69940	WVTB	454,296	$3,282.00	$13,550.00	$8,416.00
74173	WVTM-TV	1,876,825	$13,558.88	$27,150.00	$20,354.44
74174	WVTV	2,999,694	$21,670.90	$27,150.00	$24,410.45
77496	WVUA	2,296,434	$16,590.28	$27,150.00	$21,870.14
4149	WVUE-DT	1,658,125	$11,978.91	$27,150.00	$19,564.45
4329	WVUT	287,135	$2,074.37	$4,450.00	$3,262.18
74176	WVVA	1,035,752	$7,482.65	$4,450.00	$5,966.33
3113	WVXF	85,191	$615.45	$4,450.00	$2,532.73
12033	WWAY	1,206,281	$8,714.62	$4,450.00	$6,582.31
30833	WWBT	1,911,854	$13,811.94	$13,550.00	$13,680.97
20295	WWCP-TV	2,811,278	$20,309.71	$4,450.00	$12,379.85
24812	WWCW	1,404,553	$10,147.01	$1,625.00	$5,886.00
23671	WWDP	5,792,048	$41,843.89	$54,000.00	$47,921.95
21158	WWHO	2,879,726	$20,804.20	$27,150.00	$23,977.10
14682	WWJE-DT	7,209,571	$52,084.60	$54,000.00	$53,042.30
72123	WWJ-TV	5,374,064	$38,824.22	$40,675.00	$39,749.61
166512	WWJX	518,866	$3,748.48	$13,550.00	$8,649.24
6868	WWLP	3,838,272	$27,729.09	$4,450.00	$16,089.55
74192	WWL-TV	1,756,442	$12,689.19	$27,150.00	$19,919.59
3133	WWMB	1,460,406	$10,550.51	$4,450.00	$7,500.26
74195	WWMT	2,460,942	$17,778.75	$27,150.00	$22,464.38
68851	WWNY-TV	365,677	$2,641.79	$4,450.00	$3,545.89

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
74197	WWOR-TV	19,853,836	$143,431.44	$54,000.00	$98,715.72
65943	WWPB	2,184,917	$15,784.65	$54,000.00	$34,892.32
23264	WWPX-TV	3,892,904	$28,123.77	$1,625.00	$14,874.39
68547	WWRS-TV	2,322,471	$16,778.39	$27,150.00	$21,964.19
61251	WWSB	3,340,133	$24,130.35	$40,675.00	$32,402.68
23142	WWSI	11,012,279	$79,556.77	$54,000.00	$66,778.38
16747	WWTI	196,531	$1,419.81	$4,450.00	$2,934.91
998	WWTO-TV	52,428	$378.76	$54,000.00	$27,189.38
26994	WWTV	1,034,174	$7,471.25	$4,450.00	$5,960.63
84214	WWTW	15,328,951	$110,742.00	$13,550.00	$62,146.00
26993	WWUP-TV	116,638	$842.64	$1,625.00	$1,233.82
23338	WXBU	3,046,418	$22,008.45	$27,150.00	$24,579.22
61504	WXCW	1,749,847	$12,641.54	$13,550.00	$13,095.77
61084	WXEL-TV	5,553,227	$40,118.56	$27,150.00	$33,634.28
60539	WXFT-DT	10,174,464	$73,504.08	$54,000.00	$63,752.04
23929	WXGA-TV	695,007	$5,020.99	$27,150.00	$16,085.49
51163	WXIA-TV	6,179,680	$44,644.29	$54,000.00	$49,322.14
53921	WXII-TV	3,434,637	$24,813.09	$27,150.00	$25,981.54
146	WXIN	2,721,639	$19,662.12	$27,150.00	$23,406.06
39738	WXIX-TV	2,825,570	$20,412.96	$27,150.00	$23,781.48
414	WXLV-TV	4,362,761	$31,518.20	$27,150.00	$29,334.10
68433	WXMI	191,107	$1,380.63	$27,150.00	$14,265.31
64549	WXOW	425,378	$3,073.09	$4,450.00	$3,761.54

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
6601	WXPX-TV	4,566,037	$32,986.74	$40,675.00	$36,830.87
74215	WXTV-DT	19,992,096	$144,430.28	$54,000.00	$99,215.14
12472	WXTX	700,123	$5,057.95	$4,450.00	$4,753.97
11970	WXXA-TV	1,775,667	$12,828.07	$13,550.00	$13,189.04
57274	WXXI-TV	1,219,928	$8,813.21	$13,550.00	$11,181.61
53517	WXXV-TV	1,178,251	$8,512.12	$4,450.00	$6,481.06
10267	WXYZ-TV	5,591,434	$40,394.58	$40,675.00	$40,534.79
12279	WYCC	9,359,879	$67,619.22	$54,000.00	$60,809.61
77515	WYCI	34,169	$246.85	$13,550.00	$6,898.42
70149	WYCW	3,393,072	$24,512.80	$13,550.00	$19,031.40
62219	WYDC	393,843	$2,845.27	$4,450.00	$3,647.63
18783	WYDN	6,206,239	$44,836.16	$54,000.00	$49,418.08
35582	WYDO	1,097,745	$7,930.51	$1,625.00	$4,777.76
25090	WYES-TV	1,958,758	$14,150.79	$27,150.00	$20,650.39
53905	WYFF	2,586,888	$18,688.63	$27,150.00	$22,919.32
49803	WYIN	7,125,706	$51,478.73	$54,000.00	$52,739.36
24915	WYMT-TV	1,180,276	$8,526.75	$13,550.00	$11,038.37
17010	WYOU	3,553,761	$25,673.68	$13,550.00	$19,611.84
77789	WYOW	91,233	$659.10	$1,625.00	$1,142.05
13933	WYPX-TV	1,167,975	$8,437.88	$13,550.00	$10,993.94
4693	WYTV	2,068,935	$14,946.75	$4,450.00	$9,698.37
5875	WYZZ-TV	1,042,140	$7,528.80	$4,450.00	$5,989.40
15507	WZBJ	1,606,844	$11,608.43	$13,550.00	$12,579.22

Facility Id. #	Call Sign	Population	Pop. Based Fee	Historical Fee	Blended Fee
28119	WZDX	1,557,490	$11,251.88	$13,550.00	$12,400.94
70493	WZME	5,996,408	$43,320.26	$54,000.00	$48,660.13
81448	WZMQ	73,423	$530.43	$4,450.00	$2,490.22
71871	WZPX-TV	2,094,029	$15,128.04	$27,150.00	$21,139.02
136750	WZRB	952,279	$6,879.61	$13,550.00	$10,214.81
418	WZTV	2,311,143	$16,696.55	$27,150.00	$21,923.27
83270	WZVI	55,804	$403.15	$1,625.00	$1,014.07
19183	WZVN-TV	1,916,098	$13,842.60	$13,550.00	$13,696.30
49713	WZZM	1,574,546	$11,375.10	$27,150.00	$19,262.55

NOTE: Table 7 includes both feeable and exempt full service broadcast television stations.

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VII. Final Regulatory Flexibility Analysis

76. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[164] an Initial Regulatory Flexibility Analysis (IRFA) was included in the *FY 2019 NPRM.*[165] The Commission sought written public comment on these proposals including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the IRFA.[166]

A. Need for, and Objectives of, the Report and Order

77. In this Report and Order we adopt our proposal in the *FY 2019 NPRM* on collecting $339,000,000 in regulatory fees for FY 2019, pursuant to section 9 of the Communications Act of 1934, as amended (Communications Act or Act).[167] These regulatory fees will be due in September 2019. Under section 9 of the Communications Act, regulatory fees are mandated by Congress and collected to recover the regulatory costs associated with the Commission's enforcement, policy and rulemaking, user information, and international activities in an amount that can be reasonably expected to equal the amount of the Commission's annual appropriation.[168] This *Report and Order* adopts the regulatory fees proposed in the *FY 2019 NPRM.*

B. Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA

78. None.

C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

79. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.[169] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.''[170] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[171] A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[172] Nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA.[173]

80. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities

[164] 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612 has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 847 (1996).

[165] *Assessment and Collection of Regulatory Fees for Fiscal Year 2019,* Notice of Proposed Rulemaking, 34 FCC Rcd 3272 (2019).

[166] 5 U.S.C. 604.

[167] 47 U.S.C. 159.

[168] 47 U.S.C. 159(a).

[169] 5 U.S.C. 603(b)(3).

[170] 5 U.S.C. 601(6).

[171] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[172] 15 U.S.C. 632.

[173] *See* SBA, Office of Advocacy, ''Frequently Asked Questions,'' *https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf.*

that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' [174] The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.[175] Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.[176] Thus, under this size standard, most firms in this industry can be considered small.

81. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS code category is Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.[177] According to Commission data, census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.[178] The Commission therefore estimates that most providers of local exchange carrier service are small entities that may be affected by the rules adopted.

82. *Incumbent LECs.* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS code category is Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.[179] According to Commission data, 3,117 firms operated in that year. Of this total, 3,083 operated with fewer than 1,000 employees.[180] Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted. Three hundred and seven (307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers.[181] Of this total, an estimated 1,006 have 1,500 or fewer employees.[182]

83. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS code category is Wired Telecommunications Carriers, as defined in paragraph 6 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.[183] U.S. Census data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees.[184] Based on this data, the Commission concludes that most Competitive LECS, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.[185] Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees.[186] In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.[187] Also, 72 carriers have reported that they are Other Local Service Providers.[188] Of this total, 70 have 1,500 or fewer employees.[189] Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities.

84. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS code category is Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.[190] U.S. Census data for 2012 indicates that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees.[191] According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.[192] Of this total, an estimated 317 have 1,500 or fewer employees.[193] Consequently, the Commission estimates that most interexchange service providers are small entities that may be affected by the rules adopted.

85. Prepaid Calling Card Providers. Neither the Commission nor the SBA has developed a small business definition specifically for prepaid calling card providers. The most appropriate NAICS code-based category for defining prepaid calling card providers is Telecommunications Resellers. This industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual networks operators (MVNOs) are included in this industry.[194] Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.[195] U.S. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000

[174] *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[175] *See* 13 CFR 120.201, NAICS code 517110.

[176] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[177] 13 CFR 121.201, NAICS code 517110.

[178] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[179] 13 CFR 121.201, NAICS code 517110.

[180] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[181] *See Trends in Telephone Service,* Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (September 2010) (*Trends in Telephone Service*).

[182] *Id.*

[183] 13 CFR 121.201, NAICS code 517110.

[184] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[185] *See Trends in Telephone Service,* at Table 5.3.

[186] *Id.*

[187] *Id.*

[188] *Id.*

[189] *Id.*

[190] 13 CFR 121.201, NAICS code 517110.

[191] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[192] *See Trends in Telephone Service,* at Table 5.3.

[193] *Id.*

[194] *http://www.census.gov/cgi-bin/ssd/naics/naicsrch.*

[195] 13 CFR 121.201, NAICS code 517911.

employees.[196] Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of prepaid calling cards.[197] All 193 carriers have 1,500 or fewer employees.[198] Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by the rules adopted.

86. *Local Resellers.* Neither the Commission nor the SBA has developed a small business size standard specifically for Local Resellers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[199] Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees.[200] Under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services.[201] Of this total, an estimated 211 have 1,500 or fewer employees.[202] Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by the rules adopted.

87. Toll Resellers. The Commission has not developed a definition for Toll Resellers. The closest NAICS code Category is Telecommunications Resellers, and the SBA has developed a small business size standard for the category of Telecommunications Resellers.[203] Under that size standard, such a business is small if it has 1,500 or fewer employees.[204] Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees.[205] Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services.[206] Of this total, an estimated 857 have 1,500 or fewer employees.[207] Consequently, the Commission estimates that the majority of toll resellers are small entities.

88. Other Toll Carriers. Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS code category is for Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.[208] Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.[209] Thus, under this category and the associated small business size standard, most Other Toll Carriers can be considered small. According to internally developed Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage.[210] Of these, an estimated 279 have 1,500 or fewer employees.[211] Consequently, the Commission estimates that most Other Toll Carriers are small entities.

89. Wireless Telecommunications Carriers (except Satellite). This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services.[212] The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees. Thus, under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services.[213] Of this total, an estimated 261 have 1,500 or fewer employees.[214] Thus, using available data, we estimate that the majority of wireless firms can be considered small.

90. Television Broadcasting. This Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound. These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public.'' [215] These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for Television Broadcasting firms: Those having $38.5 million or less in annual receipts.[216] The 2012 Economic Census reports that 751 television broadcasting firms operated during that year. Of that number, 656 had annual receipts of less than $25 million per year. Based on that Census data we conclude that most firms that operate television stations are small. The Commission has estimated the number of licensed commercial television stations to be 1,387.[217] In addition, according to Commission staff review of the BIA Advisory Services, LLC's Media Access Pro Television Database, on March 28, 2012, about 950 of an estimated 1,300 commercial television stations (or approximately 73%) had revenues of $14 million or

[196] *http://factfinder.census.gov/faces/table services/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[197] *See Trends in Telephone Service,* at Table 5.3.

[198] *Id.*

[199] 13 CFR 121.201, NAICS code 517911.

[200] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[201] *See Trends in Telephone Service,* at Table 5.3.

[202] *Id.*

[203] 13 CFR 121.201, NAICS code 517911.

[204] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[205] *Id.*

[206] *See Trends in Telephone Service,* at Table 5.3.

[207] *Id.*

[208] 13 CFR 121.201, NAICS code 517110.

[209] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[210] *See Trends in Telephone Service,* at Table 5.3.

[211] *Id.*

[212] NAICS code 517210. *See http://www.census.gov/cgi-bin/ssd/naics/naiscsrch.*

[213] *See Trends in Telephone Service,* at Table 5.3.

[214] *Id.*

[215] U.S. Census Bureau, 2012 NAICS code Economic Census Definitions, *http://www.census.gov.cgi-bin/sssd/naics/naicsrch.*

[216] 13 CFR 121.201, NAICS code 515120.

[217] *See FCC News Release,* ''Broadcast Station Totals as of March 31, 2017,'' April 11, 2017; *https://apps.fcc.gov/edocs_public/attachmatch/DOC-344256A1.pdf.*

less.[218] We therefore estimate that the majority of commercial television broadcasters are small entities.

91. In assessing whether a business concern qualifies as small under the above definition, business (control) affiliations [219] must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive to that extent.

92. In addition, the Commission has estimated the number of licensed noncommercial educational television stations to be 396.[220] These stations are non-profit, and therefore considered to be small entities.[221] There are also 2,528 low power television stations, including Class A stations (LPTV).[222] Given the nature of these services, we will presume that all LPTV licensees qualify as small entities under the above SBA small business size standard.

93. Radio Broadcasting. This Economic Census category ''comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.'' [223] The SBA has established a small business size standard for this category, which is: Such firms having $38.5 million or less in annual receipts.[224] Census data for 2012 show that 2,849 radio station firms operated during that year. Of that number, 2,806 operated with annual receipts of less than $25 million per year.[225] According to Commission staff review of BIA Advisory Services, LLC's Media Access Pro Radio Database, on March 28, 2012, about 10,759 (97%) of 11,102 commercial radio stations had revenues of $38.5 million or less. Therefore, most such entities are small entities.

94. In assessing whether a business concern qualifies as small under the above size standard, business affiliations must be included.[226] In addition, to be determined to be a ''small business,'' the entity may not be dominant in its field of operation.[227] We note that it is difficult at times to assess these criteria in the context of media entities, and our estimate of small businesses may therefore be over-inclusive.

95. Cable Television and Other Subscription Programming. This industry comprises establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (*e.g.,* limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers.[228] The SBA has established a size standard for this industry of $38.5 million or less. Census data for 2012 shows that there were 367 firms that operated that year. Of this total, 319 operated with annual receipts of less than $25 million.[229] Thus under this size standard, most firms offering cable and other program distribution services can be considered small and may be affected by rules adopted.

96. Cable Companies and Systems. The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide.[230] The Commission's industry data indicate that there are currently 4,160 active cable systems in the United States.[231] Of this total, all but ten cable operators nationwide are small under the 400,000-subscriber size standard.[232] In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers.[233] Current Commission records show 4,160 cable systems nationwide.[234] Thus, under this standard as well, we estimate that most cable systems are small entities.

97. Cable System Operators (Telecom Act Standard). The Communications Act also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1% of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' [235] There are approximately 53 million cable video subscribers in the United States today.[236] Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate.[237] Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard.[238] We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million.[239] Although it seems certain that some of these cable

[218] We recognize that BIA's estimate differs slightly from the FCC total.

[219] ''[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has the power to control both.'' 13 CFR 21.103(a)(1).

[220] *See FCC News Release,* ''Broadcast Station Totals as of March 31, 2017,'' April 11, 2017; *https://apps.fcc.gov/edocs_public/attachmatch/DOC-344256A1.pdf.*

[221] *See generally* 5 U.S.C. 601(4), (6).

[222] *See FCC News Release,* ''Broadcast Station Totals as of March 31, 2017,'' April 11, 2017; *https://apps.fcc.gov/edocs_public/attachmatch/DOC-344256A1.pdf.*

[223] *https://www.census.gov.cgi-bin/sssd/naics/naicsrch.*

[224] 13 CFR 121.201, NAICS code 515112.

[225] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[226] ''Concerns and entities are affiliates of each other when one controls or has the power to control the other, or a third party or parties controls or has the power to control both. It does not matter whether control is exercised, so long as the power to control exists.'' 13 CFR 121.103(a)(1) (an SBA regulation).

[227] 13 CFR 121.102(b) (an SBA regulation).

[228] *https://www.census.gov.cgi-bin/sssd/naics/naicsrch.*

[229] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US–51SSSZ5&prodType=Table.*

[230] 47 CFR 76.901(e).

[231] As of July 5, 2018, there were 4,160 active cable systems in the Commission's Cable Operations and Licensing Systems (COALS) database.

[232] *See https://www.snl.com/web/client?auth=inherit#industry/topCableMSOs* (last visited July 18, 2017).

[233] 47 CFR 76.901(c).

[234] *See* footnote 2, *supra.*

[235] 47 CFR 76.901(f) and notes ff. 1, 2, and 3.

[236] *See* NCTA Industry Data, Cable's Customer Base, available at *https://www.ncta.com/industry-data* (last visited July 6, 2017).

[237] 47 CFR 76.901(f) and notes ff. 1, 2, and 3.

[238] *See https://www.snl.com/web/client?auth=inherit#industry/topCableMSOs* (last visited July 18, 2018).

[239] The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to section 76.901(f) of the Commission's rules. *See* 47 CFR 76.901(f).

system operators are affiliated with entities whose gross annual revenues exceed $250 million, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

98. Direct Broadcast Satellite (DBS) Service. DBS Service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic dish antenna at the subscriber's location. DBS is now included in SBA's economic census category ''Wired Telecommunications Carriers.'' The Wired Telecommunications Carriers industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution; and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.[240] The SBA determines that a wireline business is small if it has fewer than 1,500 employees.[241] Census data for 2012 indicate that 3,117 wireline companies were operational during that year. Of that number, 3,083 operated with fewer than 1,000 employees.[242] Based on that data, we conclude that most wireline firms are small under the applicable standard. However, currently only two entities provide DBS service, AT&T and DISH Network. AT&T and DISH Network each report annual revenues that are in excess of the threshold for a small business. Accordingly, we conclude that DBS service is provided only by large firms.

99. All Other Telecommunications. ''All Other Telecommunications'' is defined as follows: This U.S. industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.[243] The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with gross annual receipts of $32.5 million or less.[244] For this category, census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million.[245] Thus, most ''All Other Telecommunications'' firms potentially affected by the rules adopted can be considered small.

100. RespOrgs. RespOrgs, *i.e.,* Responsible Organizations, are entities chosen by toll-free subscribers to manage and administer the appropriate records in the toll-free Service Management System for the toll-free subscriber.[246] Although RespOrgs are often wireline carriers, they can also include non-carrier entities. Therefore, in the definition herein of RespOrgs, two categories are presented, *i.e.,* Carrier RespOrgs and Non-Carrier RespOrgs.

101. Carrier RespOrgs. Neither the Commission, the U.S. Census, nor the SBA have developed a definition for Carrier RespOrgs. Accordingly, the Commission believes that the closest NAICS code-based definitional categories for Carrier RespOrgs are Wired Telecommunications Carriers [247] and Wireless Telecommunications Carriers (except satellite).[248]

102. The U.S. Census Bureau defines Wired Telecommunications Carriers as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.[249] The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.[250] Census data for 2012 show that there were 3,117 Wired Telecommunications Carrier firms that operated for that entire year. Of that number, 3,083 operated with less than 1,000 employees.[251] Based on that data, we conclude that most Carrier RespOrgs that operated with wireline-based technology are small.

103. The U.S. Census Bureau defines Wireless Telecommunications Carriers (except satellite) as establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves, such as cellular services, paging services, wireless internet access, and wireless video services.[252] The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.[253] Census data for 2012 show that 967 Wireless Telecommunications Carriers operated in that year. Of that number, 955 operated with less than 1,000 employees.[254] Based on that data, we conclude that most Carrier RespOrgs that operated with wireless-based technology are small.

104. Non-Carrier RespOrgs. Neither the Commission, the Census, nor the SBA have developed a definition of Non-Carrier RespOrgs. Accordingly, the Commission believes that the closest NAICS code-based definitional categories for Non-Carrier RespOrgs are

[240] *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[241] NAICS code 517110; 13 CFR 121.201.

[242] *http://factfinder.census.gov/faces/tableservices.jasf/pages/productview.xhtml?pid+ECN_2012_US.51SSSZ4&prodType=table.*

[243] *http://www.census.gov/cgi-bin/ssssd/naics/naicsrch.*

[244] 13 CFR 121.201; NAICS code 517919.

[245] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[246] *See* 47 CFR 52.101(b)

[247] 13 CFR 121.201, NAICS code 517110

[248] 13 CFR 121.201, NAICS code 517210.

[249] *http://www.census,gov/cgi-bin/sssd/naics.naicsrch.*

[250] 13 CFR 120.201, NAICS code 517110.

[251] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[252] *http://www.census,gov/cgi-bin/sssd/naics.naicsrch.*

[253] 13 CFR 120.201, NAICS code 517120.

[254] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

''Other Services Related To Advertising'' [255] and ''Other Management Consulting Services.'' [256]

105. The U.S. Census defines Other Services Related to Advertising as comprising establishments primarily engaged in providing advertising services (except advertising agency services, public relations agency services, media buying agency services, media representative services, display advertising services, direct mail advertising services, advertising material distribution services, and marketing consulting services.[257] The SBA has established a size standard for this industry as annual receipts of $15 million dollars or less.[258] Census data for 2012 show that 5,804 firms operated in this industry for the entire year. Of that number, 5,249 operated with annual receipts of less than $10 million.[259] Based on that data we conclude that most Non-Carrier RespOrgs who provide TFN-related advertising services are small.

106. The U.S. Census defines Other Management Consulting Services as establishments primarily engaged in providing management consulting services (except administrative and general management consulting; human resources consulting; marketing consulting; or process, physical distribution, and logistics consulting). Establishments providing telecommunications or utilities management consulting services are included in this industry.[260] The SBA has established a size standard for this industry of $15 million dollars or less.[261] Census data for 2012 show that 3,683 firms operated in this industry for that entire year. Of that number, 3,632 operated with less than $10 million in annual receipts.[262] Based on this data, we conclude that most non-carrier RespOrgs who provide TFN-related management consulting services are small.[263]

107. In addition to the data contained in the four (see above) U.S. Census NAICS code categories that provide definitions of what services and functions the Carrier and Non-Carrier RespOrgs provide, Somos, the trade association that monitors RespOrg activities, compiled data showing that as of July 1, 2016, there were 23 RespOrgs operational in Canada and 436 RespOrgs operational in the United States, for a total of 459 RespOrgs currently registered with Somos.[264]

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

108. This *Report and Order* does not adopt any new reporting, recordkeeping, or other compliance requirements.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

109. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[265]

110. This Report and Order adopts the proposals in the *FY 2019 NPRM* to collect $339,000,000 in regulatory fees for FY 2019, as detailed in the fee schedules in Table 3, including (1) an increase in the DBS fee rate to 60 cents per subscriber so that the DBS fee would approach the cable television/IPTV fee, based on the Media Bureau FTEs devoted to issues that include DBS; and (2) a new methodology for calculating the full power broadcast television regulatory fees that is based on an average of the actual population and the Designated Market Groupings, which the Commission adopted in FY 2018. For satellite TV, the fee is the average computed using the flat satellite fee and the actual population. The Commission adopted the new methodology for FY 2019 as a means of transitioning the affected regulatees, which may include small entities, from the previous methodology (based on Designated Market Groupings) to a population based methodology, to be utilized starting in FY 2020.

111. In keeping with the requirements of the Regulatory Flexibility Act, we have considered certain alternative means of mitigating the effects of fee increases to a particular industry segment. For example, the de minimis threshold is $1,000, which will impact many small entities that pay regulatory fees. This de minimis threshold will relieve regulatees both financially and administratively. Regulatees may also seek waivers or other relief on the basis of financial hardship. *See* 47 CFR 1.1166.

F. Federal Rules That May Duplicate, Overlap, or Conflict

112. None.

VIII. Ordering Clauses

113. Accordingly, *it is ordered* that, pursuant to Section 9(a), (b), (e), (f), and (g) of the Communications Act of 1934, as amended, 47 U.S.C. 159(a), (b), (e), (f), and (g), this Report and Order *is hereby adopted*.

114. *It is further ordered* that the Report and Order *shall be effective* upon publication in the **Federal Register**.

115. *It is further ordered* that the FY 2019 section 9 regulatory fees assessment requirements and the rules set forth in the Final Rules section of the document *are adopted* as specified herein.

116. *It is further ordered* that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Analysis in this Report and Order, to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Broadband, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

[255] 13 CFR 120.201, NAICS code 541890.

[256] 13 CFR 120.201, NAICS code 541618.

[257] *http://www.census,gov/cgi-bin/sssd/naics.naicsrch.*

[258] 13 CFR 120.201, NAICS code 541890.

[259] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[260] *http://www.census,gov/cgi-bin/sssd/naics.naicsrch.*

[261] 13 CFR 120.201, NAICS code 514618.

[262] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[263] The four NAICS code-based categories selected above to provide definitions for Carrier and Non-Carrier RespOrgs were selected because as a group they refer generically and comprehensively to all RespOrgs. Therefore, all RespOrgs, including those not identified specifically or individually, must comply with the rules adopted in the Regulatory Fees Report and Order associated with this Final Regulatory Flexibility Analysis.

[264] Email from Jennifer Blanchard, Somos, July 1, 2016.

[265] 5 U.S.C. 603(c)(1)–(c)(4).

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note, unless otherwise noted.

■ 2. Revise § 1.1151 to read as follows:

§ 1.1151 Authority to prescribe and collect regulatory fees.

Authority to impose and collect regulatory fees is contained in section 9 of the Communications Act, as amended by sections 101–103 of title I of the Consolidated Appropriations Act of 2018 (Pub. L. 115–141, 132 Stat. 1084), 47 U.S.C. 159, which directs the Commission to prescribe and collect annual regulatory fees to recover the cost of carrying out the functions of the Commission.

■ 3. Revise § 1.1152 to read as follows:

§ 1.1152 Schedule of annual regulatory fees for wireless radio services.

Exclusive use services (per license)	Fee amount [1] ($)
1. Land Mobile (Above 470 MHz and 220 MHz Local, Base Station & SMRS) (47 CFR part 90):	
(a) New, Renew/Mod (FCC 601 & 159)	25.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	25.00
(c) Renewal Only (FCC 601 & 159)	25.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	25.00
220 MHz Nationwide:	
(a) New, Renew/Mod (FCC 601 & 159)	25.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	25.00
(c) Renewal Only (FCC 601 & 159)	25.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	25.00
2. Microwave (Private) (47 CFR part 101):	
(a) New, Renew/Mod (FCC 601 & 159)	25.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	25.00
(c) Renewal Only (FCC 601 & 159)	25.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	25.00
3. Shared Use Services:	
Land Mobile (Frequencies Below 470 MHz—except 220 MHz):	
(a) New, Renew/Mod (FCC 601 & 159)	10.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	10.00
(c) Renewal Only (FCC 601 & 159)	10.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	10.00
Rural Radio (Part 22):	
(a) New, Additional Facility, Major Renew/Mod (Electronic Filing) (FCC 601 & 159)	10.00
(b) Renewal, Minor Renew/Mod (Electronic Filing) (FCC 601 & 159) Marine Coast	10.00
Marine Coast:	
(a) New Renewal/Mod (FCC 601 & 159)	40.00
(b) New, Renewal/Mod (Electronic Filing) (FCC 601 & 159)	40.00
(c) Renewal Only (FCC 601 & 159)	40.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	40.00
Aviation Ground:	
(a) New, Renewal/Mod (FCC 601 & 159)	20.00
(b) New, Renewal/Mod (Electronic Filing) (FCC 601 & 159)	20.00
(c) Renewal Only (FCC 601 & 159)	20.00
(d) Renewal Only (Electronic Only) (FCC 601 & 159)	20.00
Marine Ship:	
(a) New, Renewal/Mod (FCC 605 & 159)	15.00
(b) New, Renewal/Mod (Electronic Filing) (FCC 605 & 159)	15.00
(c) Renewal Only (FCC 605 & 159)	15.00
(d) Renewal Only (Electronic Filing) (FCC 605 & 159)	15.00
Aviation Aircraft:	
(a) New, Renew/Mod (FCC 605 & 159)	10.00
(b) New, Renew/Mod (Electronic Filing) (FCC 605 & 159)	10.00
(c) Renewal Only (FCC 605 & 159)	10.00
(d) Renewal Only (Electronic Filing) (FCC 605 & 159)	10.00
4. CMRS Cellular/Mobile Services (per unit) (FCC 159)	[2] 0.19
5. CMRS Messaging Services (per unit) (FCC 159)	[3] 0.08
6. Broadband Radio Service (formerly MMDS and MDS)	690
7. Local Multipoint Distribution Service	690

[1] Note that "small fees" are collected in advance for the entire license term. Therefore, the annual fee amount shown in this table that is a small fee (categories 1 through 5) must be multiplied by the 5- or 10-year license term to arrive at the total amount of regulatory fees owed. Also, application fees may apply as detailed in § 1.1102.

[2] These are standard fees that are to be paid in accordance with § 1.1157(b).

[3] These are standard fees that are to be paid in accordance with § 1.1157(b).

■ 4. Revise § 1.1153 to read as follows:

§ 1.1153 Schedule of annual regulatory fees and filing locations for mass media services.

	Fee amount ($)
Radio (AM and FM) (47 CFR part 73)	
1. AM Class A:	
<=25,000 population	950
25,001–75,000 population	1,425
75,001–150,000 population	2,150
150,001–500,000 population	3,200
500,001–1,200,000 population	4,800
1,200,001–3,000,000 population	7,225
3,000,001–6,000,000 population	10,825
>6,000,000 population	16,225
2. AM Class B:	
<=25,000 population	685
25,001–75,000 population	1,000
75,001–150,000 population	1,550
150,001–500,000 population	2,325
500,001–1,200,000 population	3,475
1,200,001–3,000,000 population	5,200
3,000,001–6,000,000 population	7,800
>6,000,000 population	11,700
3. AM Class C:	
<=25,000 population	595
25,001–75,000 population	895
75,001–150,000 population	1,350
150,001–500,000 population	2,000
500,001–1,200,000 population	3,000
1,200,001–3,000,000 population	4,525
3,000,001–6,000,000 population	6,775
>6,000,000 population	10,175
4. AM Class D:	
<=25,000 population	655
25,001–75,000 population	985
75,001–150,000 population	1,475
150,001–500,000 population	2,225
500,001–1,200,000 population	3,325
1,200,001–3,000,000 population	4,975
3,000,001–6,000,000 population	7,450
>6,000,000 population	11,200
5. AM Construction Permit	595
6. FM Classes A, B1 and C3:	
<=25,000 population	1,000
25,001–75,000 population	1,575
75,001–150,000 population	2,375
150,001–500,000 population	3,550
500,001–1,200,000 population	5,325
1,200,001–3,000,000 population	7,975
3,000,001–6,000,000 population	11,950
>6,000,000 population	17,950
7. FM Classes B, C, C0, C1 and C2:	
<=25,000 population	1,200
25,001–75,000 population	1,800
75,001–150,000 population	2,700
150,001–500,000 population	4,050
500,001–1,200,000 population	6,075
1,200,001–3,000,000 population	9,125
3,000,001–6,000,000 population	13,675
>6,000,000 population	20,500
8. FM Construction Permits	1,000
TV (47 CFR part 73)	
Digital TV (UHF and VHF Commercial Stations) The fees below are for calculation purposes only; they are not to be used for fee payment:	
1. Markets 1 thru 10	54,000
2. Markets 11 thru 25	40,675
3. Markets 26 thru 50	27,150
4. Markets 51 thru 100	13,550
5. Remaining Markets	4,450
6. Construction Permits	4,450
Television Fee Factor	.007224
Satellite UHF/VHF Commercial (The satellite fee below is for calculation purposes only; it is not to be used for the payment of fees.):	
1. All Markets	1,625

	Fee amount ($)
Low Power TV, Class A TV, TV/FMTranslator, & TV/FM Booster (47 CFR part 74)	345

■ 5. Revise § 1.1154 to read as follows:

§ 1.1154 Schedule of annual regulatory charges for common carrier services.

Radio facilities	Fee amount ($)
1. Microwave (Domestic Public Fixed) (Electronic Filing) (FCC Form 601 & 159)	25.00.
Carriers:	
1. Interstate Telephone Service Providers (per interstate and international end-user revenues) (see FCC Form 499–A).	.00317.
2. Toll Free Number Fee	0.12 per Toll Free Number.

■ 6. Revise § 1.1155 to read as follows:

§ 1.1155 Schedule of regulatory fees for cable television services.

1. Cable Television Relay Service	1,225.
2. Cable TV System, Including IPTV (per subscriber)	0.86.
3. Direct Broadcast Satellite (DBS)	0.60 per subscriber.

■ 7. Revise § 1.1156 to read as follows:

§ 1.1156 Schedule of regulatory fees for international services.

(a) *Geostationary Orbit (GSO) and Non-Geostationary Orbit (NGSO) Space Stations.* The following schedule applies for the listed services:

TABLE 1 TO PARAGRAPH (a)

Fee category	Fee amount ($)
Space Stations (Geostationary Orbit)	159,625
Space Stations (Non-Geostationary Orbit)	154,875
Earth Stations (Transmit/Receive & Transmit only) (per authorization or registration)	425

(b) *International terrestrial and satellite.* (1) Regulatory fees for International Bearer Circuits are to be paid by facilities-based common carriers and non-common carrier basis that have active (used or leased) international bearer circuits as of December 31 of the prior year in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier, which includes active circuits to themselves or to their affiliates. In addition, non-common carrier terrestrial and satellite operators must pay a fee for each circuit sold or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. ''Active circuits'' for the purposes of this paragraph (b) include backup and redundant circuits. In addition, whether circuits are used specifically for voice or data is not relevant in determining that they are active circuits.

(2) The fee amount on a per active Gbps basis will be determined for each fiscal year.

TABLE 2 TO PARAGRAPH (b)(2)

International terrestrial and satellite (capacity as of December 31, 2018)	Fee amount
Terrestrial Common Carrier and Non-Common Carrier Satellite Common Carrier and Non-Common Carrier.	121 per Gbps Circuit.

(c) *Submarine cable.* Regulatory fees for submarine cable systems will be paid annually, per cable landing license, for all submarine cable systems operating as of December 31 of the prior year. The fee amount will be determined by the Commission for each fiscal year.

TABLE 3 TO PARAGRAPH (c)

Submarine cable systems (capacity as of Dec. 31, 2018)	Fee amount
<50 Gbps	12,575
50 Gbps or greater, but less than 250 Gbps	25,150
250 Gbps or greater, but less than 1,000 Gbps	50,300
1,000 Gbps or greater, but less than 4,000 Gbps	100,600
4,000 Gbps or greater	201,225

■ 8. Revise § 1.1163 to read as follows:

§ 1.1163 Adjustments to regulatory fees.

(a) For Fiscal Year 2019 and thereafter, the Schedule of Regulatory Fees, contained in §§ 1.1152 through 1.1156, may be adjusted annually by the Commission pursuant to section 9 of the Communications Act. 47 U.S.C. 159, as amended. Adjustments to the fees established for any category of regulatory fee payment shall include projected cost increases or decreases and an estimate of the volume of units upon which the regulatory fee is calculated.

(b) The fees assessed shall:

(1) Be derived by determining the full-time equivalent number of employees, bureaus and offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities; and

(2) Be established at amounts that will result in collection, during each fiscal year, of an amount that can reasonably be expected to equal the amount appropriated for such fiscal year for the performance of the activities described in paragraph (b)(1) of this section.

(c) The Commission shall by rule amend the Schedule of Regulatory Fees by increases or decreases that reflect, in accordance with paragraph (b)(2) of this section, changes in the amount appropriated for the performance of the activities described in paragraph (b)(1) of this section, for such fiscal year. Such increases or decreases shall be adjusted to reflect unexpected increases or decreases in the number of units subject to payment of such fees and result in collection of an aggregate amount of fees that will approximately equal the amount appropriated for the subject regulatory activities.

(d) The Commission shall, by rule, amend the Schedule of Regulatory Fees if the Commission determines that the Schedule requires amendment to comply with the requirements of paragraph (b)(1) of this section.

(e) In adjusting regulatory fees, the Commission will round such fees to the nearest $5.00 in the case of fees under $1,000.00, or to the nearest $25.00 in the case of fees of $1,000.00 or more.

■ 9. Revise § 1.1164 to read as follows:

§ 1.1164 Penalties for late or insufficient regulatory fee payments.

Electronic payments are considered timely when a wire transfer was received by the Commission's bank no later than 6:00 p.m. on the due date; confirmation to *pay.gov* that a credit card payment was successful no later than 11:59 p.m. (EST) on the due date; or confirmation an ACH was credited no later than 11:59 p.m. (EST) on the due date. In instances where a non-annual regulatory payment (*i.e.,* delinquent payment) is made by check, cashier's check, or money order, a timely fee payment or installment payment is one received at the Commission's lockbox bank by the due date specified by the Commission or by the Managing Director. Where a non-annual regulatory fee payment is made by check, cashier's check, or money order, a timely fee payment or installment payment is one received at the Commission's lockbox bank by the due date specified by the Commission or the Managing Director. Any late payment or insufficient payment of a regulatory fee, not excused by bank error, shall subject the regulatee to a 25 percent penalty of the amount of the fee or installment payment which was not paid in a timely manner.

(a) The Commission may, in its discretion, following one or more late filed installment payments, require a regulatee to pay the entire balance of its regulatory fee by a date certain, in addition to assessing a 25 percent penalty.

(b) In cases where a fee payment fails due to error by the payor's bank, as evidenced by an affidavit of an officer of the bank, the date of the original submission will be considered the date of filing.

(c) If a regulatory fee is not paid in a timely manner, the regulatee will be notified of its deficiency. This notice will automatically assess a 25 percent penalty, subject the delinquent payor's pending applications to dismissal, and may require a delinquent payor to show cause why its existing instruments of authorization should not be subject to revocation.

(d)(1) Where a regulatee's new, renewal or reinstatement application is required to be filed with a regulatory fee (as is the case with wireless radio services), the application will be dismissed if the regulatory fee is not included with the application package. In the case of a renewal or reinstatement application, the application may not be refiled unless the appropriate regulatory fee plus the 25 percent penalty charge accompanies the refiled application.

(2) If the application that must be accompanied by a regulatory fee is a mutually exclusive application with a filing deadline, or any other application that must be filed by a date certain, the application will be dismissed if not accompanied by the proper regulatory fee and will be treated as late filed if resubmitted after the original date for filing application.

(e) Any pending or subsequently filed application submitted by a party will be dismissed if that party is determined to be delinquent in paying a standard regulatory fee or an installment payment. The application may be resubmitted only if accompanied by the required regulatory fee and by any assessed penalty payment.

(f) In instances where the Commission may revoke an existing instrument of authorization for failure to timely pay a regulatory fee, or any associated interest or penalty, the Commission will provide prior notice of its intent to revoke the licensee's instruments of authorization by registered mail, return receipt requested to the licensee at its last known address. The notice shall provide the licensee no less than 60 days to either pay the fee, penalty and interest in full or show cause why the fee, interest or penalty is inapplicable or should otherwise be waived or deferred.

(1) An adjudicatory hearing will not be designated unless the response by the regulatee to the Order to Show Cause presents a substantial and material question of fact.

(2) Disposition of the proceeding shall be based upon written evidence only and the burden of proceeding with the introduction of the evidence and the burden of proof shall be on the respondent regulatee.

(3) Unless the regulatee substantially prevails in the hearing, the Commission may assess costs for the conduct of the proceeding against the respondent regulatee. *See* 47 U.S.C. 402(b)(5).

(4) Any Commission order adopted under the regulation in paragraph (f) of this section shall determine the amount due, if any, and provide the licensee with at least 60 days to pay that amount or have its authorization revoked.

(5) No order of revocation under this section shall become final until the licensee has exhausted its right to judicial review of such order under 47 U.S.C. 402(b)(5).

(6) Any regulatee failing to submit a regulatory fee, following notice to the regulatee of failure to submit the required fee, is subject to collection of the required fee, including interest thereon, any associated penalties, and the full cost of collection to the Federal Government pursuant to section 3702A of the Internal Revenue Code, 31 U.S.C. 3717, and the provisions of the Debt Collection Improvement Act. *See* §§ 1.1901 through 1.1952. The debt collection processes described in paragraphs (a) through (f)(5) of this section may proceed concurrently with any other sanction in this paragraph (f)(6).

(7) An application or filing by a regulatee that is delinquent in its debt to the Commission is also subject to dismissal under § 1.1910.

■ 10. Revise § 1.1166 to read as follow:

§ 1.1166 Waivers, reductions and deferrals of regulatory fees.

The fees established by §§ 1.1152 through 1.1156 and associated interest charges and penalties may be waived, reduced or deferred in specific instances, on a case-by-case basis, where good cause is shown and where waiver, reduction or deferral of such fees, interest charges and penalties would promote the public interest. Requests for waivers, reductions or deferrals of regulatory fees for entire categories of payors will not be considered.

(a) Requests for waivers, reductions or deferrals should be filed with the Commission's Secretary and will be acted upon by the Managing Director with the concurrence of the General Counsel. All such filings within the scope of the fee rules shall be filed as a separate pleading and clearly marked to the attention of the Managing Director. Any such request that is not filed as a separate pleading will not be considered by the Commission.

(b) Deferrals of fees, interest, or penalties if granted, will be for a designated period of time not to exceed six months.

(c) Petitions for waiver of a regulatory fee, interest, or penalties must be accompanied by the required fee, interest, or penalties and FCC Form 159. Submitted fees, interest, or penalties will be returned if a waiver is granted. Waiver requests that do not include the required fees, interest, or penalties or forms will be dismissed unless accompanied by a petition to defer payment due to financial hardship, supported by documentation of the financial hardship.

(d) Petitions for reduction of a fee, interest, or penalty must be accompanied by the full fee, interest, or penalty payment and Form 159. Petitions for reduction that do not include the required fees, interest, or penalties or forms will be dismissed unless accompanied by a petition to defer payment due to financial hardship, supported by documentation of the financial hardship.

(e) Petitions for waiver of a fee, interest, or penalty based on financial hardship, including bankruptcy, will not be granted, even if otherwise consistent with Commission policy, to the extent that the total regulatory and application fees, interest, or penalties for which waiver is sought exceeds $500,000 in any fiscal year, including regulatory fees due in any fiscal year, but paid prior to the due date. In computing this amount, the amounts owed by an entity and its subsidiaries and other affiliated entities will be aggregated. In cases where the claim of financial hardship is not based on bankruptcy, waiver, partial waiver, or deferral of fees, interest, or penalties above the $500,000 cap may be considered on a case-by-case basis.

[FR Doc. 2019–20058 Filed 9–25–19; 8:45 am]

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