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Presidential Documents

Title 3—

The President

Proclamation 9954 of October 23, 2019

United Nations Day, 2019

By the President of the United States of America

A Proclamation

Seventy-four years ago, representatives of 50 countries gathered in San Francisco to establish a global organization dedicated to achieving peace and prosperity. Impelled by the unprecedented carnage of two world wars, these countries created the United Nations as a forum for peaceful conflict resolution and the promotion of shared beliefs, forever changing global diplomacy. On this day, we celebrate the achievements of the United Nations in promoting peace, delivering aid to those in need, and confronting international challenges, and we recommit to helping the organization reach its full potential.

Last month, at the 74th Session of the United Nations General Assembly, I laid out my vision for a future of which America can be proud. The United States has embarked on a program of national renewal—fueling economic growth through tax cuts and deregulation, fighting unfair trade, protecting individual freedoms, and standing up for sovereign borders. We call on other countries to pursue their own programs of national revitalization. The path to prosperity for each country begins at home—and when leaders of sovereign nations put the interests of their citizens first, our collective future will be brighter, our people will be happier, and our partnerships will be stronger. The United States prizes liberty, independence, and self-government above all, and the United Nations organization is stronger when leaders protect their own people, respect their neighbors, and honor the differences that make each country unique.

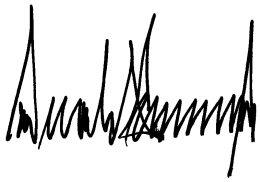
Among the member states of the United Nations, the United States is leading the way in addressing global problems. We have held to account the Iranian regime, which seeks destabilization through nuclear proliferation, promotes a global campaign of terror, and causes mass unrest throughout the Middle East region. In response to Iran's attack in September on oil facilities in Saudi Arabia, we imposed stringent sanctions on the regime's Central Bank and National Development Fund. We have also worked to address the ongoing calamity in Venezuela wrought by the illegitimate regime of Nicolas Maduro. We imposed sanctions that cut off the Maduro dictatorship's financial support, and we were the first country to recognize Juan Guaido as the legitimate, interim President of Venezuela. The United States will continue to work through the United Nations and with its member states to confront bad actors who seek to disrupt and destroy freedom, prosperity, and progress.

We must also recognize that, in order to reach its enormous potential, the United Nations must follow through on essential reforms. The financial burdens must be distributed more equitably and funds should be taken from failed programs and directed to those that work.

On this day, we also pause to acknowledge the sacrifices of all men and women who serve in United Nations missions around the world. They are far from home, and devote their time and energy to protecting the vulnerable and providing relief to areas ravaged by war, famine, and natural disasters. And we honor the memories of those who have lost their lives in the pursuit of world peace.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 24, 2019, as United Nations Day. I urge the Governors of the 50 States, the Governor of the Commonwealth of Puerto Rico, and the officials of all other areas under the flag of the United States, to observe United Nations Day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of October, in the year of our Lord two thousand nineteen, and of the Independence of the United States of America the two hundred and forty-fourth.



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Rules and Regulations

Federal Register

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

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. FDA–2011–F–0171]

RIN 0910–AH83

Food Labeling: Calorie Labeling of Articles of Food Sold From Certain Vending Machines; Front of Package Type Size

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA or we) is issuing this final rule to revise the type size labeling requirements when front-of-pack (FOP) labeling is used to meet the calorie declaration requirements for articles of food sold from glass-front vending machines. We are taking this action to reduce the regulatory burden on industry, increase flexibility for the labeling of certain articles of food sold from glass-front vending machines, and ensure that consumers continue to have visible FOP calorie information for articles of food at the point of purchase.

DATES: *Effective Date:* This rule is effective November 27, 2019. *Compliance Date:* The compliance date for type size FOP labeling requirements (21 CFR 101.8(b)(2)) for articles of food sold from glass-front vending machines is July 1, 2021.

ADDRESSES: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and insert the docket number found in brackets in the heading of this final rule 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: Marjan Morravej, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1439, *Marjan.Morravej@fda.hhs.gov.*

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I. Executive Summary

A. Purpose of the Final Rule

We are amending our vending machine labeling regulations in part 101 (21 CFR part 101) by revising the type size requirement in § 101.8(b)(2) (21 CFR 101.8(b)(2)) when FOP labeling is used to meet the calorie declaration requirements for articles of food sold from glass-front vending machines. Our regulations previously required that the FOP calorie declaration type size for articles of food sold from glass-front vending machines be at least 50 percent of the size of the largest printed matter on the label. The final rule requires, instead, that the FOP calorie declaration type size be at least 150 percent (one and one-half times) the minimum required size of the net quantity of contents (*i.e.,* net weight) declaration on the package of the vended food. This change will reduce regulatory burdens on, and increase flexibility for, industry, while ensuring that calorie information is visible to consumers to help them make informed dietary decisions.

B. Summary of the Major Provision of the Final Rule

The final rule revises the type size requirement for calories labeled on the front of the package of vended foods in § 101.8(b)(2) by amending the type size to 150 percent (one and one-half times) the minimum required type size of the net quantity of contents declaration.

C. Legal Authority

This action is consistent with our authority in section 403(q)(5)(H) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 343(q)(5)(H)). Section 403(q)(5)(H) requires certain vending machine operators to provide calorie declarations for certain articles of food sold from vending machines. In addition, we are issuing this rule consistent with our authority in sections 201(n) (21 U.S.C. 321(n)) and 403(a)(1) and (f) of the FD&C Act. Further, we are issuing this rule under section 701(a) of the FD&C Act (21 U.S.C. 371(a)), which gives us the authority to issue regulations for the efficient enforcement of the FD&C Act. We discuss our legal authority in greater detail in section III, ''Legal Authority.''

D. Costs and Benefits

Because this final rule only requires minor revisions to FOP calorie labeling type size requirements when FOP labeling is used to meet the calorie declaration requirements for articles of food sold from glass-front vending machines, we estimate there are no costs to vending machine operators and potential cost savings to vending machine operators and packaged food manufacturers. We expect the cost savings of this revision to outweigh the costs, with no significant effect on consumer behavior or health.

II. Background

A. Need for the Regulation/History of This Rulemaking

Section 403(q)(5)(H) of the FD&C Act requires certain vending machine operators to provide calorie declarations for certain articles of food sold from vending machines. Under section 403(q)(5)(H)(viii) of the FD&C Act, a vending machine operator must provide a sign in close proximity to each article

of food or the selection button that includes a clear and conspicuous statement disclosing the number of calories contained in the article if: (1) An article of food is sold from the vending machine that does not permit a prospective purchaser to examine the Nutrition Facts label before purchasing the article, or does not otherwise provide visible nutrition information at the point of purchase and (2) the machine is operated by a person who is engaged in the business of owning or operating 20 or more vending machines.

In the **Federal Register** of December 1, 2014 (79 FR 71259), we issued a final rule to implement these labeling requirements (''2014 final rule''). The 2014 final rule, which became effective on December 1, 2016, requires vending machine operators that own or operate 20 or more vending machines (or that voluntarily register with us to be subject to the 2014 final rule) to provide calorie declarations for certain foods sold from vending machines. If FOP calorie labeling is used to meet that requirement, the 2014 final rule requires the calorie labeling be clear and conspicuous and easily read on the article of food while in the vending machine, in a type size at least 50 percent of the size of the largest printed matter on the label (79 FR 71259 at 71291).

After the 2014 final rule's publication, some trade associations and food manufacturers stated that the FOP type size requirement presented significant technical challenges to the packaged food industry and asked us to: (1) Amend the requirement and (2) provide additional flexibility for providing FOP calorie information.

In the **Federal Register** of July 12, 2018 (83 FR 32221), we issued a proposed rule to revise the type size labeling requirements for FOP calorie declarations for packaged food sold from glass-front vending machines such that the minimum type size would be 150 percent (one and one-half times) the size of the net quantity of contents declaration, instead of being based on the largest printed matter on the label. We also asked for comment on two alternate approaches: Requiring the visible nutrition information to be in a type size that is at least 100 percent of the size of the net quantity of contents declaration (Alternate Approach A) and not specifying any size for the visible nutrition information (Alternate Approach B). We proposed a compliance date of January 1, 2020, and announced our intent to exercise enforcement discretion pending completion of the rulemaking for products sold in glass-front vending machines that: (1) Provided FOP calorie disclosures and (2) complied with all aspects of the 2014 final rule except the type size requirement. Finally, we announced our intent to exercise enforcement discretion, at least until January 1, 2020, for calorie disclosures for gums, mints, and roll candy products sold in glass-front machines in packages that are too small to bear FOP labeling.

B. Summary of Comments to the Proposed Rule

The proposed rule provided a 90-day comment period. We received more than 120 comments. The comments came from individual consumers, academia, healthcare professionals, consumer advocacy groups, industry, public health groups, and trade associations. Among other things, the comments discussed:

- *FOP labeling type size.* Some comments said that larger FOP calorie labeling type size would help consumers read the information and make an informed dietary decision, while other comments noted that larger type size would reduce industry flexibility and may have no effect on consumer decisions.
- *Regulatory burdens to industry.* Some comments said we should reduce regulatory burdens and provide additional flexibility for industry while still giving consumers the information they need to make informed dietary decisions; other comments wanted a larger minimum type size for FOP calorie disclosures regardless of any burden to industry.
- *Compliance dates.* Some comments wanted an extended compliance date to allow companies to bring their FOP labeling into compliance with the rule.
- *Whether FDA should:* (1) Maintain the 2014 final rule's type size requirement, (2) finalize the proposed requirement, (3) finalize Alternate Approach A, or (4) finalize Alternate Approach B. Some comments wanted to retain the 2014 final rule's type size requirements and stated that the requirements were the most beneficial to public health. The comments supporting either our proposed type size requirement or an alternate approach generally did not support Alternate Approach B. Many supported the proposed type size, while some said Alternate Approach A would reduce the regulatory burden on industry while still giving consumers the information they need to make informed dietary decisions.

We discuss the comments and our responses to the comments in more detail in part IV of this document.

III. Legal Authority

We are revising the labeling requirements for providing calorie declarations for food sold from certain vending machines, as set forth in this final rule, consistent with our authority in section 403(q)(5)(H) of the FD&C Act. Under section 403(q)(5)(H) of the FD&C Act, certain vending machine operators must provide calorie declarations for certain articles of food sold from vending machines. Under section 403(a)(1) of the FD&C Act, such information must be truthful and non-misleading. Under section 403(f) of the FD&C Act, any word, statement, or other information required by or under the FD&C Act to appear on the label or labeling of an article of food must be prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. Under section 403(a), (f), or (q) of the FD&C Act, food to which these requirements apply is deemed misbranded if these requirements are not met. In addition, under section 201(n) of the FD&C Act, the labeling of food is misleading if it fails to reveal facts that are material in light of representations made in the labeling or with respect to consequences that may result from use. Thus, we are issuing this rule under sections 201(n) and 403(a)(1), (f), and (q)(5)(H) of the FD&C Act, as well as under section 701(a) of the FD&C Act, which gives us the authority to issue regulations for the efficient enforcement of the FD&C Act.

IV. Comments on the Proposed Rule and FDA Response

A. Introduction

We received more than 120 comments on the proposed rule. The comments came from individual consumers, academia, healthcare professionals, consumer advocacy groups, industry, public health groups, and trade associations.

We describe and respond to comments in subsections B through F of this section. We preface each comment discussion with a numbered ''Comment'' and each response by the word ''Response'' to make it easier to identify comments and our responses. We have numbered each comment to help distinguish among different topics. The number assigned is for organizational purposes only and does not signify the comment's value, importance, or the order in which it was received.

B. Description of General Comments and FDA Responses

Many comments generally supported or opposed the proposed rule without focusing on a particular provision. In the following paragraphs, we discuss and respond to such general comments.

(Comment 1) Some comments supported the 2014 final rule's requirement that the calorie labeling type size be at least 50 percent of the size of the largest printed matter on the label. The comments expressed concern that the proposed type size of 150 percent of the minimum required net weight declaration may be too small for consumers to see or could be easily missed by hurried consumers or by children. The comments said that the larger type sizes required by the 2014 final rule make it easier for consumers to make informed dietary decisions. One comment suggested that there is no evidence that a reduction in calorie type size will benefit consumers. Another comment said that reducing the type size could lead to less consumer use of FOP calorie declarations and said we should conduct consumer studies to determine the appropriate type size.

(Response 1) The preamble to the proposed rule explained that several industry representatives indicated that the 50 percent type size requirement for FOP calorie labeling presented significant technical challenges to the packaged foods industry (83 FR 32221 at 32223). These challenges included calorie declarations that would be very large on some products and difficulties in label redesign (id.). Additionally, several voluntary FOP labeling programs presented calorie information in sizes ranging from 100 to 150 percent of the minimum size of the net quantity of contents statement, and these FOP labeling programs would be disrupted significantly if the label had to comply with the 50 percent type size requirement in addition to having the voluntary FOP information. For these reasons, we proposed to amend the 50 percent type size requirement. The comments suggesting that we keep the 50 percent type size requirement did not address the technical challenges described in the preamble to the proposed rule or the potential impact to voluntary FOP nutrition labeling programs. Consequently, the final rule revises § 101.8(b)(2) to require the type size of the calorie declaration for articles for food sold from certain vending machines be at least 150 percent of the minimum required size of the net quantity of contents declaration on the package.

Regarding the comments stating that changing the type size requirement would result in declarations that are too small or less useful to consumers, we note that the final rule requires the visible nutrition information to be in a type size ''at least 150 percent'' of the size of the net quantity of contents declaration. This means that the information may be *larger* than 150 percent, and so the rule gives manufacturers the flexibility to make the most efficient and effective use of their label space in presenting the required nutrition information. We also note that both section 403(q)(5)(H)(viii) of the FD&C Act and the final rule require the information to be ''clear and conspicuous.'' Thus, given that a type size of at least 150 percent of the size of the net quantity of contents declaration ensures that the FOP calorie declaration is clear and conspicuous and visible to consumers at the point of purchase, and given that the rule does not limit how large the nutrition information must be, we disagree that the rule will result in declarations that are too small or not useful to consumers.

(Comment 2) Some comments expressed concern that vending operators could assume that simply stocking glass-front machines with products that have FOP declarations complies with vending machine labeling requirements (§ 101.8) and may not provide calorie information in cases where the coil or positioning of a product prevents a consumer from being able to read the FOP calorie declarations before purchasing a product.

(Response 2) We affirm that vending machine operators stocking glass-front machines with products that have FOP declarations in order to satisfy vending machine labeling requirements in § 101.8 must comply with all requirements set forth in § 101.8(b)(2). This means not only complying with minimum type size requirements set forth in this final rule, but also requirements that the prospective purchaser can view the total number of calories for the article of food as sold at the point of purchase. Our regulations, at § 101.8(b)(2), require that FOP calorie declarations be clear and conspicuous and able to be easily read on the article of food in the vending machine, among other requirements. Additionally, our regulations, at § 101.8(b)(1), effectively require that the calories, serving size, and servings per container listed in the Nutrition Facts label be visible to prospective purchasers ''without any obstruction.'' Both § 101.8(b)(1) and (2) are clear that calorie declarations on the food label must be visible, without obstruction, such that we do not find it necessary to further amend or add requirements in § 101.8(b) specifying how a product is to be placed in a vending machine when FOP labeling is used to meet vending machine labeling requirements.

C. Comments on Our Proposed 150 Percent Type Size Requirement and FDA Responses

We proposed to require that FOP calorie information be clear and conspicuous and able to be easily read on the article of food while in the vending machine, in a type size at least 150 percent of the size of the net quantity of contents declaration on the front of the package, and with sufficient color and contrasting background to other print on the label to permit the prospective purchaser to clearly distinguish the information (proposed § 101.8(b)(2)) (83 FR 32221 at 32226 through 32227).

We also proposed two editorial corrections to § 101.8(b)(2): Substituting the word ''prospective'' in place of ''perspective,'' and revising the first sentence of § 101.8(b)(2) by inserting a comma after the word ''minimum.''

(Comment 3) Many comments supported a proposed type size of at least 150 percent (one and one-half times) the minimum required size of the net quantity of contents declaration. The comments noted that the 150 percent type size requirement gives industry flexibility, reduces regulatory burdens, provides visible calorie information to consumers so that they can make informed dietary choices, is easy to enforce, allows for the continuation of voluntary FOP labeling initiatives, and standardizes FOP calorie type size.

(Response 3) As we noted in the preamble to the proposed rule (83 FR 32221 at 32223) and in our response to comment 1, the 50 percent type size requirement presented significant technical challenges to the packaged foods industry and also had the potential to significantly disrupt voluntary FOP labeling programs. We agree that revising our regulations to require the type size of FOP calorie declarations to be at least 150 percent the minimum required size of the net quantity of contents declaration will provide flexibility to industry and reduce regulatory burden while continuing to provide visible calorie information to consumers. We reiterate that the rule, by using the terms ''at least 150 percent,'' creates a minimum size requirement and that manufacturers can make the calorie disclosures on FOP labeling even larger if they choose.

(Comment 4) Some comments asked that we clarify our proposed

requirement to state that: (1) The type size must be 150 percent of the size *required* for the net quantity of contents declaration and (2) the type size requirement refers to the quantitative value for calories for FOP declarations and not the word ''calories'' itself. For example, one comment recommended the following language: ''The visible nutrition information must be clear and conspicuous and able to be easily read on the article of food while in the vending machine, with the numeric value for calories appearing in a type size at least 150 percent of the size required by section 101.7(i) of this title for the net quantity of contents declaration on the front of the package.''

(Response 4) We agree, in part, and disagree, in part, with the comments.

With respect to the comment suggesting that we clarify the rule to require the type size to be 150 percent of the size required for the net quantity of contents declaration, we have revised the rule to state that type size must be ''at least 150 percent of the size required by § 101.7(i) for the net quantity of contents declaration'' on the front of the package. By adding language to refer explicitly to our net quantity of contents regulation at § 101.7(i) (21 CFR 101.7(i)), we establish a minimum value on which the visible nutrition information is to be based. In other words, the size requirements set forth in § 101.7(i), rather than the size of the net quantity of contents declaration that is actually used on the package (because § 101.7(i) establishes minimum size requirements rather than specific size requirements), become the starting point for the size of the visible nutrition information in § 101.8(b)(2). We decided to retain the words ''at least'' before ''150 percent'' so that firms can make the visible nutrition information larger if they so choose.

Regarding the comment asking us to clarify that the type size requirement refers to the quantitative value for calories for FOP declarations and not the word ''calories'' itself, we interpret ''visible nutrition information,'' which is the subject of § 101.8(b)(2), to mean ''total calories in the article of food'' (79 FR 71259 at 71266 through 71267). Therefore, the numerical value indicating the total calories, rather than the word ''calories,'' is subject to this final rule's type size requirements.

D. Comments on Our Alternate Approaches and FDA Responses

We invited comment on two alternate approaches in the proposed rule's preamble: Requiring the visible nutrition information to be in a type size that is at least 100 percent of the size of the net quantity of contents declaration (Alternate Approach A), and not specifying any size for the visible nutrition information (Alternate Approach B) (83 FR 32221 at 32224). Several comments addressed these alternate approaches.

(Comment 5) Some comments supported Alternate Approach A (requiring the visible nutrition information to be in a type size that is at least 100 percent of the size of the net quantity of contents declaration). One comment said that larger calorie labeling places undue importance on calories and could give a competitive advantage to products with fewer calories and smaller or lighter packages. Another comment said that the approach would ensure the calorie information is visible for consumers while creating a consistent size requirement that is not overly burdensome on industry.

(Response 5) The area of the principal display panel (calculated in square inches or square centimeters) determines the minimum type size that is permitted for the net quantity declaration, which § 101.7(i) further explains. As such, both the 150 percent requirement we are finalizing and Alternate Approach A's 100 percent requirement would be based on the size of the principal display panel. We do not agree that a calorie declaration size based on the overall size of the principal display panel gives a competitive advantage to any particular product because the minimum declaration size will be proportionate to the package size (§ 101.7(i)).

Regarding the comment suggesting that a package with a larger calorie declaration could be at a competitive disadvantage relative to products in smaller or lighter packages, we disagree. The calorie disclosure applies to the food as vended; the weight of the package does not affect the caloric value of the food itself. Furthermore, we do not have (and the comment did not provide) evidence indicating that the size of the calorie disclosure itself will influence a consumer's decision to purchase a food.

We decided not to adopt Alternate Approach A because adopting a type size of at least 150 percent of the minimum required size of the net quantity of contents declaration provides a larger minimum calorie declaration type size, versus Alternate Approach A's 100 percent minimum type size, to the purchaser when they are viewing the vended product through the glass front of a vending machine. When a vending machine food is in a vending machine, a prospective purchaser cannot handle the product to make it easier for the purchaser to read the nutrition information. Therefore, visible nutrition information on the front of package must be large enough, and prominent enough, for prospective purchasers to see and use the information (79 FR 71259 at 71269). We believe that the 150 percent type size requirement for FOP calorie disclosures on foods sold from glass-front vending machines will ensure that the declarations are visible, clear, and conspicuous and able to be easily read by a prospective purchaser, satisfying section 403(q)(5)(H)(viii)(I)(aa) of the FD&C Act requirements that nutrition information be visible to a prospective purchaser at the point of purchase.

The 150 percent requirement also provides sufficient flexibility and reduces the regulatory burden for industry, particularly because many manufacturers already use this type size for calorie disclosures. We note that industry comments, particularly comments from small- and medium-sized vended food manufacturers, supported the 150 percent requirement, and such support reinforces our decision to adopt the 150 percent requirement instead of Alternate Approach A.

(Comment 6) Some comments disagreed with Alternate Approach A, saying it would limit the visibility of calorie information. The comments stated that calorie disclosures of this size would be difficult for consumers to read even from a short distance, particularly through the glass front of a vending machine. One comment said that Alternate Approach A would make FOP calorie information generally less prominent in vended food items, reducing the overall efficacy of FOP labeling.

(Response 6) We agree that Alternate Approach A would make FOP calorie declarations less prominent on vended food items because of Alternate Approach A's smaller minimum type size requirement, and for the reasons stated in our response to comment 5, we decline to adopt Alternate Approach A. The comments disagreeing with Alternate Approach A also did not provide, and we are not aware of, data or evidence regarding the limited visibility of calorie information, consumers' impaired ability to read calorie disclosures, or comparative efficacy of FOP labeling under Alternate Approach A as compared to the 150 percent minimum type size requirement.

(Comment 7) Many comments disagreed with Alternate Approach B (FOP calorie disclosures without a type size requirement). For example, some

comments advocated a minimum FOP calorie type size requirement that ensures readability by consumers rather than a ''no type size'' requirement in Alternate Approach B. Other comments said that Alternate Approach B would not help the public, with one comment saying that Alternate Approach B would deny consumers the caloric content transparency that is necessary to make informed decisions about their health. Other comments said that a lack of size specifications would introduce inconsistent labeling across brands and products.

Some comments supported Alternate Approach B and stated that it would provide maximum flexibility for industry.

(Response 7) We have decided not to adopt Alternate Approach B. Vending machine operators that choose products that have FOP labeling must ensure that the visible nutrition information is clear and conspicuous, as required by both section 403(q)(5)(H)(viii) of the FD&C Act and our regulations. Alternate Approach B would provide vending machine operators with no clear standard on what type size is sufficient to be visible, clear, and conspicuous to a prospective purchaser, thus making it difficult for an operator to determine whether a vended food manufacturer's FOP labeling satisfies section 403(q)(5)(H)(viii) of the FD&C Act and our regulations. Conversely, a minimum type size, such as the 150 percent standard that we are adopting in the final rule, provides a workable type size that industry can implement that ensures visibility to consumers.

In addition, amending our type size requirements in § 101.8(b)(2) is consistent with voluntary FOP labeling programs that already present calorie information in type sizes of 150 percent of the minimum size of the net quantity of contents statement on the principal display panel.

E. Comments on the Proposed Compliance Date and FDA Responses

We proposed that covered vending machine operators comply with any finalized requirements from this rulemaking by January 1, 2020 (83 FR 32221 at 32224 through 32225).

(Comment 8) Some comments noted that some products have extended shelf lives, and those products may be in distribution or vending machines, without updated labeling, on the final rule's compliance date. Some comments suggested that we should enforce the final requirements only on those products manufactured after the rule's compliance date. Other comments supported extending the final rule's compliance date to align with the compliance dates for the Nutrition Facts labeling final rule. The comments noted that harmonizing the compliance dates provides for more efficient implementation of the final rules, so that companies must revise labels only once to comply with all requirements.

Conversely, other comments did not support any extension of the final rule's compliance date. One comment stated that the final rule's effective date should be no later than January 20, 2020, because FDA has been working on this matter since 2011 and because the rule is required by the Patient Protection and Affordable Care Act (ACA) (Pub. L. 111–148). Another comment said that we should finalize a standard and adhere to whatever compliance date we set.

(Response 8) We agree that manufacturers that intend to add FOP calorie disclosures that are consistent with this final rule should have time to revise or update their labeling. Therefore, we have determined that a compliance date of July 1, 2021, is appropriate. This will give industry time to make label changes and move any existing products through distribution chains before the compliance date. We believe this date will have limited impact on consumers' health in the interim because: (1) Any FOP labeling used to meet calorie disclosure requirements must still comply with all aspects of the 2014 final rule except the type size requirement and (2) many manufacturers already use the 150 percent type size for calorie disclosures.

(Comment 9) Some comments asked that we either allow alternate calorie labeling for gums, mints, and roll candy products sold in glass-front machines in packages that are too small to bear FOP labeling or exercise enforcement discretion from the vending machine calorie labeling requirements for these products.

(Response 9) In section VI, we announce our intent to exercise enforcement discretion regarding the calorie disclosure requirements for gums, mints, and roll candy products sold in glass-front machines in packages that are too small to bear FOP labeling.

F. Miscellaneous Comments and FDA Responses

Many comments addressed aspects of vending labeling other than FOP calorie disclosure type size. Some of these, such as comments on the 2014 final rule's effective date, impacts, and economic burdens, and calorie units of measure, fall outside the scope of this rule and many were addressed directly in the 2014 final rule. Other comments, such as those pertaining to additional FOP declarations (such as information on specific nutrients or voluntary disclosures of calories per serving) and other activities that FDA might or should pursue in conjunction with the rule, also are outside the scope of the rule, and we will not address them here.

We discuss the other miscellaneous comments in the following paragraphs.

(Comment 10) Some comments discussed alternate methods of providing calorie information that would comply with the 2014 final rule's requirements, such as on a sign posted near the vending machine. They noted, for instance, that the placement of products within vending machines changes frequently, and so the use of signage generally is impracticable. Some comments said that the vending industry is largely looking to packaged food manufacturers to provide FOP calorie labeling to satisfy our vending machine calorie disclosure requirements.

(Response 10) There are options other than FOP calorie labeling that vending machine operators may choose to satisfy section 403(q)(5)(H)(viii) of the FD&C Act and current vending machine labeling requirements in § 101.8, including allowing the prospective purchaser to view the calories, serving size, and servings per container listed in the Nutrition Facts label on the vending machine food without any obstruction or using reproductions of Nutrition Facts labels, as provided in § 101.8(b)(1), or posting signage with calorie declarations, in, on, or adjacent to the machine, as provided in § 101.8(c). To the extent a vending machine operator provides calorie information for a vending machine food in such an alternate way and otherwise meets the requirements of § 101.8, the vending machine operator would be in compliance with our calorie disclosure requirements.

(Comment 11) Some comments questioned who is subject to the 2014 final rule's requirements, and, by extension, this rule's requirements. One comment asked for clarification on the respective responsibilities of food manufacturers and vending machine companies in complying with this rule; other comments implied that this final rule imposes requirements on manufacturers of food sold from vending machines. Another comment encouraged us to apply our vending labeling requirements to all vending machine operators, regardless of the number of machines they operate.

(Response 11) We stated in the 2014 final rule that section 403(q)(5)(H)(viii) of the FD&C Act and the 2014 final rule

do not apply to suppliers of vending machine food; instead, section 403(q)(5)(H)(viii) of the FD&C Act and the 2014 final rule establish requirements for certain vending machine operators (79 FR 71259 at 71284). The type size requirement in this final rule therefore also establishes requirements for certain vending machine operators and does not apply to suppliers of vending machine food. We recognize that a manufacturer of covered vending machine food may provide calorie information via FOP labeling on their product label and such calorie information may constitute visible nutrition information in accordance with section 403(q)(5)(H)(viii)(I)(aa) of the FD&C Act, provided that the applicable requirements of § 101.8(b) are satisfied. However, section 403(q)(5)(H)(viii) of the FD&C Act, the 2014 final rule, and this final rule do not require manufacturers to provide such information. As such, the 2014 final rule and this final rule do not impose requirements on suppliers of vending machine food.

Section 403(q)(5)(H)(viii)(I)(bb) of the FD&C Act states that an article of food requires a calorie declaration if it is from a vending machine that, among other things, is operated by a person who is engaged in the business of owning or operating 20 or more vending machines. Accordingly, our vending calorie disclosure regulations only apply to food sold from vending machines operated by a person: (1) Engaged in the business of owning or operating 20 or more vending machines subject to the requirements of section 403(q)(5)(H)(viii) of the FD&C Act or (2) not subject to the requirements of section 403(q)(5)(H)(viii) of the FD&C Act who voluntarily elects to be subject to those requirements by registering biannually under section 403(q)(5)(H)(ix) of the FD&C Act.

(Comment 12) One comment expressed concern that allowing voluntary display of calories per serving, along with the required display of calories per package, on vended foods could allow vending machine operators and food manufacturers to bypass the requirement that total caloric contents of the package be clearly labeled in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. The comment recommended that we amend § 101.8(c)(2)(i)(C) to include the following sentence: ''If voluntarily disclosed, the calories per serving label shall appear on the food packaging separately and distinctly from the calories per package label such that a prospective purchaser may readily and easily discern between the two.''

(Response 12) As explained in the preamble to the 2014 final rule, our requirements regarding calorie declarations for covered vending machine food mandate declaration of the total calories (79 FR 71259 at 71276). It does not allow vending machine operators to bypass the requirement that total caloric contents of the package be clearly labeled in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

However, as noted in the preamble to the 2014 final rule, we would not object to food manufacturers or vending machine operators voluntarily providing information in addition to total calories to consumers at the point of purchase, provided that such information is truthful and not misleading and otherwise complies with the FD&C Act and FDA regulations (79 FR 71259 at 71267).

V. Description of the Final Rule

The final rule amends our vending machine labeling regulations in part 101 by revising the type size requirement in § 101.8(b)(2) when FOP labeling is used to meet the calorie declaration requirements for articles of food sold from glass-front vending machines. The final rule requires that the FOP calorie declaration type size be at least 150 percent (one and one-half times) the minimum required size of the net quantity of contents (*i.e.,* net weight) declaration on the package of the vended food.

VI. Effective and Compliance Dates

This final rule is effective November 27, 2019. The compliance date for type size FOP labeling requirements (§ 101.8(b)(2)) for articles of food sold from glass-front vending machines is July 1, 2021. We are finalizing this compliance date to provide sufficient time for the packaged food industry to revise their labels, as appropriate, consistent with the new requirements.

In the preamble to the proposed rule, we announced our intent to exercise enforcement discretion, at least until January 1, 2020, with respect to gums, mints, and roll candy products sold in glass-front machines in packages that are too small to bear FOP labeling (83 FR 32221 at 32225). Although the calorie disclosure requirements in § 101.8(c)(2) cover these products, we advise manufacturers of these products and operators of vending machines containing these products of our intent to exercise enforcement discretion beyond January 1, 2020, with respect to compliance with the 2014 final rule's calorie disclosure requirements. We are continuing our enforcement discretion policy for these products because we recognize the challenges of adding compliant calorie information on packages that are too small to bear FOP labeling. As we previously stated, we acknowledge that these products tend to be sold in small packages that do not lend themselves to FOP labeling and are often located or placed in a small space in glass-front machines that may make it difficult to add calorie disclosure signage. For example, we are aware that some glass-front vending machines have trays that are different sizes; the tray width for bags of potato chips is larger than the tray width for a roll of mints or hard candies or for a small package of gum that can make it difficult to add calorie information (81 FR 50303 at 50305). Because we are continuing our enforcement discretion policy for these products, this means that we do not currently intend to pursue actions against vending machine operators that sell gums, mints, and roll candy products that do not meet the calorie disclosure requirements of the 2014 final rule.

VII. Economic Analysis of Impacts

We have examined the impacts of the final rule under Executive Order 12866, Executive Order 13563, Executive Order 13771, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 13771 requires that the costs associated with significant new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' This rule is not a significant regulatory action as defined by Executive Order 12866. This rule is an Executive Order 13771 deregulatory action.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. The 2014 final rule does not impose burdens on the suppliers of vending machine foods. While suppliers are not obliged to engage in FOP calorie labeling, this rule

will allow for greater flexibility for the use of FOP calorie labeling in glass-front vending machines than our previous requirements, potentially reducing the burden on covered vending machine operators of providing additional calorie labeling. Thus, we certify that the rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before issuing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $154 million, using the most current (2018) Implicit Price Deflator for the Gross Domestic Product. This final rule will not result in an expenditure in any year that meets or exceeds this amount.

In response to requests from the vending and the packaged foods industries to reduce regulatory burden and increase flexibility, we are revising the existing type size requirements when FOP labeling is used to meet the calorie declaration requirements for articles of food sold from glass-front vending machines. The final regulatory impact analysis qualitatively discusses the economic impacts of this final rule, including potential costs, cost savings, and benefits.

Because this final rule only requires minor revisions to FOP calorie labeling type size when FOP labeling is used to meet the calorie declaration requirements for articles of food sold from glass-front vending machines, we estimate there are no costs to vending machine operators and potential cost savings to vending machine operators and packaged food manufacturers. We expect the cost savings of this revision to outweigh the costs, with no significant effect on consumer behavior or health. We have developed a comprehensive Economic Analysis of Impacts that assesses the impacts of the final rule. The full analysis of economic impacts is available in the docket for this final rule (Ref. 1) and at *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*

VIII. Analysis of Environmental Impact

We have determined under 21 CFR 25.30(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IX. Paperwork Reduction Act of 1995

This final rule contains no new collection of information beyond what was described in the December 2014 final rule and is now approved under OMB control number 0910–0782. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

X. Federalism

We have analyzed this final rule in accordance with the principles set forth in Executive Order 13132. Section 4(a) of the Executive Order requires Agencies to construe a Federal statute to preempt State law only where the statute contains an express preemption provision or there is some other clear evidence that the Congress intended preemption of State law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute. Federal law includes an express preemption provision that preempts any nutrition labeling requirement of food that is not identical to the requirement of section 403(q) of the FD&C Act, except that this provision does not apply to food that is offered for sale in a restaurant or similar retail food establishment that is not part of a chain with 20 or more locations doing business under the same name and offering for sale substantially the same menu items unless such restaurant or similar retail food establishment elects to comply voluntarily with the nutrition information requirements under section 403(q)(5)(H)(ix) of the FD&C Act. This final rule creates requirements for nutrition labeling of food under section 403(q) of the FD&C Act that preempts certain non-identical State and local nutrition labeling requirements.

Section 4205 of the ACA (124 Stat. 119, 576), which amended the FD&C Act to require certain vending machine operators to provide calorie declarations for certain articles of food sold from vending machines, also included a Rule of Construction providing that nothing in the amendments made by section 4205 of the ACA shall be construed: (1) To preempt any provision of State or local law, unless such provision establishes or continues into effect nutrient content disclosures of the type required under section 403(q)(5)(H) of the FD&C Act and is expressly preempted under subsection (a)(4) of such section; (2) to apply to any State or local requirement respecting a statement in the labeling of food that provides for a warning concerning the safety of the food or component of the food; or (3) except as provided in section 403(q)(5)(H)(ix) of the FD&C Act, to apply to any restaurant or similar retail food establishment other than a restaurant or similar retail food establishment described in section 403(q)(5)(H)(i) of the FD&C Act.

We interpret the provisions of section 4205 of the ACA related to preemption to mean that States and local governments may not impose nutrition labeling requirements for food sold from vending machines that must comply with the Federal requirements of section 403(q)(5)(H) of the FD&C Act, unless the State or local requirements are identical to the Federal requirements. In other words, States and localities cannot have additional or different nutrition labeling requirements for food sold either: (1) From vending machines that are operated by a person engaged in the business of owning or operating 20 or more vending machines subject to the requirements of section 403(q)(5)(H)(viii) of the FD&C Act or (2) from vending machines operated by a person not subject to the requirements of section 403(q)(5)(H)(viii) of the FD&C Act who voluntarily elects to be subject to those requirements by registering biannually under section 403(q)(5)(H)(ix) of the FD&C Act.

Otherwise, for food sold from vending machines not subject to the nutrition labeling requirements of section 403(q)(5)(H)(viii) of the FD&C Act, States and localities may impose nutrition labeling requirements. Under our interpretation of section 4205(d)(1) of the ACA, nutrition labeling for food sold from these vending machines is not nutrient content disclosures of the type required under section 403(q)(5)(H)(viii) of the FD&C Act and, therefore, is not preempted. Under this interpretation, States and localities can continue to require nutrition labeling for food sold from vending machines that are exempt from nutrition labeling under section 403(q)(5) of the FD&C Act. This interpretation is consistent with the fact that Congress included vending machine operators in the voluntary registration provision of section 403(q)(5)(H)(ix) of the FD&C Act. There would have been no need to include vending machine operators in the provision that allows opting into the Federal requirements if States and localities could not otherwise require non-identical nutrition labeling for food sold from any vending machines.

In addition, the express preemption provisions of 21 U.S.C. 343–1(a)(4) do not preempt any State or local

requirement respecting a statement in the labeling of food that provides for a warning concerning the safety of the food or component of the food. This is clear from both the literal language of 21 U.S.C. 343–1(a)(4) with respect to the scope of preemption and from the Rule of Construction at section 4205(d)(2) of the ACA.

XI. Reference

The following reference is on display at the Dockets Management Staff (see **ADDRESSES**) and is available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; it is also available electronically at *https://www.regulations.gov.* FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. FDA, ''Food Labeling: Calorie Labeling of Articles of Food Sold from Certain Vending Machines; Front of Package Type Size, Final Regulatory Impact Analysis, Final Regulatory Flexibility Analysis, Final Small Entity Analysis,'' dated June 2018. Also available at: *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*

List of Subjects in 21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 101 is amended as follows:

PART 101—FOOD LABELING

■ 1. The authority citation for part 101 continues to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371; 42 U.S.C. 243, 264, 271.

■ 2. Revise § 101.8(b)(2) to read as follows:

§ 101.8 Vending machines.

* * * * *

(b) * * *

(2) The prospective purchaser can otherwise view visible nutrition information, including, at a minimum, the total number of calories for the article of food as sold at the point of purchase. This visible nutrition information must appear on the food label itself. The visible nutrition information must be clear and conspicuous and able to be easily read on the article of food while in the vending machine, in a type size at least 150 percent of the size required by § 101.7(i) for the net quantity of contents declaration on the front of the package, and with sufficient color and contrasting background to other print on the label to permit the prospective purchaser to clearly distinguish the information.

* * * * *

Dated: September 30, 2019.

Norman E. Sharpless,

Acting Commissioner of Food and Drugs.

Dated: October 7, 2019.

Eric D. Hargan,

Deputy Secretary, Department of Health and Human Services.

[FR Doc. 2019–23276 Filed 10–25–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 874

[Docket No. FDA–2019–N–4328]

Medical Devices; Ear, Nose, and Throat Devices; Classification of the Self-Fitting Air-Conduction Hearing Aid

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying the self-fitting air-conduction hearing aid into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the self-fitting air-conduction hearing aid's classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices, in part by reducing regulatory burdens.

DATES: This order is effective October 28, 2019. The classification was applicable on October 5, 2018.

FOR FURTHER INFORMATION CONTACT: Cherish Giusto, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2432, Silver Spring, MD 20993–0002, 301–796–9679, *Cherish.Giusto@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the self-fitting air-conduction hearing aid as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act to a predicate device that does not require premarket approval (see 21 U.S.C. 360c(i)). We determine whether a new device is substantially equivalent to a predicate by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act (21 U.S.C. 360c(f)(2)). Section 207 of the Food and Drug Administration Modernization Act of 1997 established the first procedure for De Novo classification (Pub. L. 105–115). Section 607 of the Food and Drug Administration Safety and Innovation Act modified the De Novo application process by adding a second procedure (Pub. L. 112–144). A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a

determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA is required to classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically within class III, the De Novo classification is considered to be the initial classification of the device.

We believe this De Novo classification will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens. When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)s (see 21 U.S.C. 360c(f)(2)(B)(i)). As a result, other device sponsors do not have to submit a De Novo request or premarket approval application in order to market a substantially equivalent device (see 21 U.S.C. 360c(i), defining ''substantial equivalence''). Instead, sponsors can use the 510(k) process, when necessary, to market their device.

II. De Novo Classification

On May 11, 2018, Bose Corp. submitted a request for De Novo classification of the Bose Hearing Aid. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on October 5, 2018, FDA issued an order to the requester classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 874.3325. We have named the generic type of device self-fitting air-conduction hearing aid, and it is identified as a wearable sound amplifying device that is intended to compensate for impaired hearing and incorporates technology, including software, that allows users to program their hearing aids. This technology integrates user input with a self-fitting strategy and enables users to independently derive and customize their hearing aid fitting and settings.

FDA has identified the following risks to health associated specifically with this type of device and the measures required to mitigate these risks in table 1.

TABLE 1—SELF-FITTING AIR-CONDUCTION HEARING AID RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Diminished hearing due to over-amplification caused by: • Excessively high sound output levels in the ear canal • Device malfunction • Interference with or from other devices	Software verification, validation, and hazard analysis; Electroacoustic performance testing; and Electromagnetic compatibility (EMC) testing.
Listening fatigue or failure to provide sound awareness due to over- or under-amplification caused by: • Poor fitting • Device malfunction • Use error • Interference with or from other devices	Clinical data; Usability testing; Software verification, validation, and hazard analysis; Electroacoustic performance testing; EMC testing; and Labeling
Tissue heating due to exposure to non-ionizing radiation emitted by wireless technology	Wireless technology evaluation; and Labeling.
Tissue trauma/damage in the ear canal or other patient contacting areas due to: • Excessively long ear piece • Device malfunction • Use error	Usability testing; Electrical and thermal safety testing; and Labeling.
Missed or delayed medical diagnosis or treatment due to failure to self-identify correct population and condition	Labeling.

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. In order for a device to fall within this classification, and thus avoid automatic classification in class III, it would have to comply with the special controls named in this final order. The necessary special controls appear in the regulation codified by this order. This device is subject to premarket notification requirements under section 510(k) of the FD&C Act.

III. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. 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 guidance document ''De Novo Classification Process (Evaluation of Automatic Class III Designation)'' have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 820, regarding quality system regulation, have been approved under OMB control number 0910–0073; the collections of information in 21 CFR part 814, subparts A through E, regarding

premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 874

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 874 is amended as follows:

PART 874—EAR, NOSE, AND THROAT DEVICES

■ 1. The authority citation for part 874 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360*l*, 371.

■ 2. Add § 874.3325 to subpart D to read as follows:

§ 874.3325 Self-fitting air-conduction hearing aid.

(a) *Identification.* A self-fitting air-conduction hearing aid is a wearable sound amplifying device that is intended to compensate for impaired hearing and incorporates technology, including software, that allows users to program their hearing aids. This technology integrates user input with a self-fitting strategy and enables users to independently derive and customize their hearing aid fitting and settings.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) Clinical data must evaluate the effectiveness of the self-fitting strategy.

(2) Electroacoustic parameters, including maximum output limits, distortion levels, self-generated noise levels, latency, and frequency response, must be specified and tested.

(3) Performance data must demonstrate the electromagnetic compatibility (EMC), electrical safety, and thermal safety of the device.

(4) Software verification, validation, and hazard analysis must be performed.

(5) If the device incorporates wireless technology:

(i) Performance testing must validate safety of exposure to non-ionizing radiation;

(ii) Performance data must validate wireless technology functions; and

(iii) Labeling must specify instructions, warnings, and information relating to wireless technology and human exposure to non-ionizing radiation.

(6) Usability testing must demonstrate that users can correctly use the device as intended under anticipated conditions of use.

(7) Patient labeling must include the following:

(i) Information on how a patient can self-identify as a candidate for the device;

(ii) Information about when to seek professional help;

(iii) A warning about using hearing protection in loud environments;

(iv) A warning about staying alert to sounds around the user of the device;

(v) Technical information about the device, including information about EMC; and

(vi) Information on how to correctly use and maintain the device.

Dated: October 23, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–23464 Filed 10–25–19; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2017–0560; FRL–10000–69]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances (17–4)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for eight chemical substances which are the subject of premanufacture notices (PMNs). The chemical substances are subject to Orders issued by EPA pursuant to section 5(e) of TSCA. This action requires persons who intend to manufacture (defined by statute to include import) or process any of these eight chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. Persons may not commence manufacture or processing for the significant new use until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required by that determination.

DATES: This rule is effective on December 27, 2019. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (e.s.t.) on November 12, 2019.

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

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this rule. 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:

• Manufacturers or processors of one or more subject chemical substances (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and Orders under TSCA. Importers of chemicals subject to these SNURs must certify compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this rule on or after November 27, 2019 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see 40 CFR 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

B. How can I access the docket?

The docket includes information considered by the Agency in developing

the proposed and final rules. The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0560, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

II. Background

A. What action is the Agency taking?

EPA is finalizing these SNURs under TSCA section 5(a)(2) for eight substances which were the subject of PMNs. These SNURs require persons who intend to manufacture or process any of these chemical substances for an activity that is designated as a significant new use to notify EPA at least 90 days before commencing that activity.

In the **Federal Register** of August 27, 2018 (83 FR 43606) (FRL–9982–78), EPA proposed a SNUR for 10 chemical substances in 40 CFR part 721 subpart E. More information on the specific chemical substances subject to this final rule can be found in the **Federal Register** documents for the direct final SNUR of August 27, 2018 (83 FR 43527) (FRL–9982–77), which is referenced in the proposed SNUR. The direct final rule was withdrawn in the **Federal Register** of October 26, 2018 (83 FR 54032) (9985–56). Note that the SNUR for PMN P–16–455 was erroneously included as proposed 40 CFR 721.11121 and will not be finalized, because it was already codified as 40 CFR 721.11017. In addition, the SNUR for PMN P–16–503 was erroneously included as proposed 40 CFR 721.11122 and will not be finalized, because it is already codified as 40 CFR 721.11018.

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

TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four TSCA section 5(a)(2) factors listed in Unit III.

C. Applicability of General Provisions

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

III. Significant New Use Determination

When the Agency issues an Order under TSCA section 5(e), section 5(f)(4) requires that the Agency consider whether to promulgate a SNUR for any use not conforming to the restrictions of the Order or publish a statement describing the reasons for not initiating the rulemaking. TSCA section 5(a)(2) states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

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

In determining what would constitute a significant new use for the chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, and the four TSCA section 5(a)(2) factors listed in this unit.

IV. Public Comments on Proposed Rule and EPA Responses

EPA received public comments from four entities on the proposed rule. The Agency's responses are described in a separate Response to Public Comments document contained in the public docket for this rule, EPA–HQ–OPPT–2017–0560. In addition, EPA is withdrawing the proposed SNURs for the substances described in PMN P–16–455 and P–16–503 because they were previously regulated under final SNURs at 40 CFR 721.11017 and 721.11018, respectively. Furthermore, the response to comments will describe changes to the proposed SNURs for PMN P–16–342, P16–406 and P16–407 to include an exemption from SNUR requirements when these PMN substances have been fully reacted (cured). This makes the SNURs consistent with the same exemption contained in the underlying TSCA section 5 Orders for those substances.

V. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for eight chemical substances in 40 CFR part 721, subpart E. In Unit IV. of the original direct final rule (83 FR 43527; August 27, 2018) (FRL–9982–77), EPA provides the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) Registry number (if assigned for non-confidential chemical identities).
- Basis for the TSCA section 5(e) Order.
- Potentially Useful Information. This is information identified by EPA that would help characterize the potential health and/or environmental effects of the chemical substance in support of a request by the PMN submitter to modify the TSCA Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use designated by the SNUR.

• CFR citation assigned in the regulatory text section of this rule.

The regulatory text section of each rule specifies the activities designated as significant new uses. Certain new uses, including exceedance of production volume limits (*i.e.,* limits on manufacture volume) and other uses designated in this rule, may be claimed as CBI. Unit IX. discusses a procedure companies may use to ascertain whether a proposed use constitutes a significant new use.

These final rules include eight PMN substances that are subject to Orders under TSCA section 5(e)(1)(A)(ii)(I) where EPA determined that activities associated with the PMN substances may present unreasonable risk to human health or the environment. Those Orders require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The SNURs identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying Orders, consistent with TSCA section 5(f)(4).

Where EPA determined that the PMN substance may present an unreasonable risk of injury to human health via inhalation exposure, the underlying TSCA section 5(e) Order usually requires that potentially exposed employees wear specified respirators unless actual measurements of the workplace air show that air-borne concentrations of the PMN substance are below the New Chemical Exposure Limit (NCEL). The comprehensive NCELs provisions in TSCA section 5(e) Orders include requirements addressing performance criteria for sampling and analytical methods, periodic monitoring, respiratory protection, and recordkeeping. No comparable NCEL provisions currently exist in 40 CFR part 721, subpart B, for SNURs. Therefore, for these cases, the individual SNURs in 40 CFR part 721, subpart E, will state that persons subject to the SNUR who wish to pursue NCELs as an alternative to the 40 CFR 721.63 respirator requirements may request to do so under 40 CFR 721.30. EPA expects that persons whose 40 CFR 721.30 requests to use the NCELs approach for SNURs that are approved by EPA will be required to comply with NCELs provisions that are comparable to those contained in the corresponding TSCA section 5(e) Order.

VI. Rationale and Objectives of the Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are subject to these SNURs, EPA concluded that regulation was warranted under TSCA section 5(e), pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the chemical substances. The basis for such findings is outlined in Unit IV. Based on these findings, TSCA section 5(e) Orders requiring the use of appropriate exposure controls were negotiated with the PMN submitters. As a general matter, EPA believes it is necessary to follow TSCA section 5(e) Orders with a SNUR that identifies the absence of those protective measures as Significant New Uses to ensure that all manufacturers and processors—not just the original submitter—are held to the same standard.

B. Objectives

EPA is issuing these SNURs because the Agency wants:

• To identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying Orders, consistent with TSCA section 5(f)(4).

• To receive notice of any person's intent to manufacture or process a listed chemical substance for the described significant new use before that activity begins.

• To have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a listed chemical substance for the described significant new use.

• To be able to either determine that the prospective manufacture or processing is not likely to present an unreasonable risk, or to take necessary regulatory action associated with any other determination, before the described significant new use of the chemical substance occurs.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the internet at *http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html.*

VII. Applicability of the Significant New Use Designation

To establish a significant new use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have undergone premanufacture review. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no person may commence such activities without first submitting a PMN. Therefore, for chemical substances for which an NOC has not been submitted EPA concludes that the designated significant new uses are not ongoing.

When chemical substances identified in this rule are added to the TSCA Inventory, EPA recognizes that, before the rule is effective, other persons might engage in a use that has been identified as a significant new use. However, TSCA section 5(e) Orders have been issued for all the chemical substances, and the PMN submitters are prohibited by the TSCA section 5(e) Orders from undertaking activities which will be designated as significant new uses. The identities of six of the eight chemical substances subject to this rule have been claimed as confidential. Based on this, the Agency believes that it is highly unlikely that any of the significant new uses described in the regulatory text of this rule are ongoing.

Furthermore, EPA designated August 27, 2018 (the date of public release of the original direct final and proposed rules) as the cutoff date for determining whether the new use is ongoing. The objective of EPA's approach has been to ensure that a person could not defeat a SNUR by initiating a significant new use before the effective date of the final rule.

In the unlikely event that a person began commercial manufacture or processing of the chemical substances for a significant new use identified as of August 27, 2018, that person will have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons will have to first comply with all applicable SNUR notification requirements and wait until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination.

VIII. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require developing any particular new information (*e.g.,* generating test data) before submission of a SNUN. There is an exception: If a person is required to submit information for a chemical substance pursuant to a rule, Order or consent agreement under TSCA section 4 (15 U.S.C. 2603), then TSCA section 5(b)(1)(A) (15 U.S.C. 2604(b)(1)(A)) requires such information to be submitted to EPA at the time of submission of the SNUN.

In the absence of a rule, Order, or consent agreement under TSCA section

4 covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable (40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing, under 40 CFR part 721, subpart E. In Unit IV. of the original direct final rule (83 FR 43527; August 27, 2018) (FRL–9982–77), lists potentially useful information that will be useful to EPA's evaluation. Companies who are considering submitting a SNUN are encouraged, but not required, to develop the information on the substance. EPA strongly encourages persons, before performing any testing, to consult with the Agency. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing on vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h).

In some of the TSCA section 5(e) Orders for the chemical substances regulated under this rule, EPA has established production volume limits. These limits cannot be exceeded unless the PMN submitter submits the results of specified tests. The SNURs contain the same production volume limits as the TSCA section 5(e) Orders. Exceeding these production limits is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a SNUN at least 90 days in advance of commencement of non-exempt commercial manufacture or processing.

Any request by EPA for the triggered and pended testing described in the Orders was made based on EPA's consideration of available screening-level data, if any, as well as other available information on appropriate testing for the PMN substances. Further, any such testing request on the part of EPA that includes testing on vertebrates was made after consideration of available toxicity information, computational toxicology and bioinformatics, and high-throughput screening methods and their prediction models.

The potentially useful information identified in Unit IV. of the original direct final rule may not be the only means of addressing the potential risks of the chemical substance. However, submitting a SNUN without any test data or other information may increase the likelihood that EPA will take action under TSCA section 5(e) or 5(f). EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests. SNUN submitters should provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

IX. Procedural Determinations

By this rule, EPA is establishing certain significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2 and 40 CFR part 720, subpart E. Absent a final determination or other disposition of the confidentiality claim under 40 CFR part 2 procedures, EPA is required to keep this information confidential. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI, at 40 CFR 721.1725(b)(1).

Under these procedures a manufacturer or processor may request EPA to determine whether a proposed use would be a significant new use under the rule. The manufacturer or processor must show that it has a *bona fide* intent to manufacture or process the chemical substance and must identify the specific use for which it intends to manufacture or process the chemical substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or process the chemical substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the chemical substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in 40 CFR 721.1725(b)(1) with that under 40 CFR 721.11 into a single step.

If EPA determines that the use identified in the *bona fide* submission would not be a significant new use, *i.e.,* the use does not meet the criteria specified in the rule for a significant new use, that person can manufacture or process the chemical substance so long as the significant new use trigger is not met. In the case of a production volume trigger, this means that the aggregate annual production volume does not exceed that identified in the *bona fide* submission to EPA. Because of confidentiality concerns, EPA does not typically disclose the actual production volume that constitutes the use trigger. Thus, if the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use.

X. SNUN Submissions

According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and 721.25. E–PMN software is available electronically at *http://www.epa.gov/opptintr/newchems.*

XI. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2017–0560.

XII. Statutory and Executive Order Reviews

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

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

This action establishes SNURs for several new chemical substances that were the subject of PMNs and TSCA section 5(e) Orders. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act (PRA)

According to the PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR

part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this action. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to amend this table without further notice and comment.

The information collection activities in this action have already been approved by OMB pursuant to the PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including using automated collection techniques, to the Director, Regulatory Support Division, Office of Mission Support (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

Pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that promulgation of this SNUR will not have a significant adverse economic impact on a substantial number of small entities. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the final rule as a ''significant new use.'' Because these uses are ''new,'' based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, the number of SNUNs received was seven in Federal fiscal year (FY) 2013, 13 in FY2014, six in FY2015, 10 in FY2016, 14 in FY2017, and 18 in FY2018 and only a fraction of these were from small businesses. In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from $16,000 to $2,800. This lower fee reduces the total reporting and recordkeeping of cost of submitting a SNUN to about $10,116 for qualifying small firms. Therefore, the potential economic impacts of complying with this SNUR are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this action. As such, EPA has determined that this action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

E. Executive Order 13132: Federalism

This action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

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

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

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

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

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

In addition, since this action does not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note) does not apply to this action.

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

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898 (59 FR 7629, February 16, 1994).

XIII. Congressional Review Act (CRA)

Pursuant to the CRA (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

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

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

Dated: October 15, 2019.

Tala Henry,

Deputy Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

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

Authority: 7 U.S.C. 135 *et seq.,* 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.,* 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, add the following sections in numerical order under the undesignated center heading ''Significant New Uses of Chemical Substances'' to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Significant New Uses of Chemical Substances	
* * * * *	
721.11116	2070–0012
721.11117	2070–0012
721.11118	2070–0012
721.11119	2070–0012
721.11120	2070–0012
721.11123	2070–0012
* * * * *	

* * * * *

PART 721—[AMENDED]

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

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

■ 4. Add §§ 721.11116 through 721.11123 to subpart E to read as follows:

Subpart E—Significant New Uses for Specific Chemical Substances

* * * * *

Sec.
721.11116 Substituted carbocycle, N-[[[4-[[(4-substituted carbocyclic) amino]sulfonyl]carbocyclic]amino]carbonyl]-4-methyl- (generic).
721.11117 Aliphatic polyester (generic).
721.11118 Modified acrylic polymer (generic).
721.11119 Functionalized polyimide and functionalized polyamide (generic).
721.11120 Siloxanes and Silicones, di-Me, 3-hydroxypropyl Me, Me 3,3,4,4,5,5,6,6,6-nonafluorohexyl.
721.11121–721.11122 [Reserved]
721.11123 Carboxylic acids, C6-18 and C8-15-di-, polymers with diethylene glycol, glycerol, oleic acid, phthalic, acid and sorbitol.

* * * * *

§ 721.11116 Substituted carbocycle, N-[[[4-[[(4-substituted carbocyclic)amino]sulfonyl] carbocyclic]amino]carbonyl]-4-methyl- (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted carbocycle, N-[[[4-[[(4-substituted carbocyclic)amino] sulfonyl]carbocyclic]amino]carbonyl]-4-methyl- (PMN P–13–307) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), (a)(4) (when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible), (a)(5) (respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor of at least 10 or maintain workplace airborne concentrations), (a)(6) (particulate (including solids or liquid droplets)), (b) (concentrations set at 1.0%) and (c).

(A) As an alternative to the respirator requirements in paragraph (a)(2)(i) of this section, a manufacturer or processor may choose to follow the new chemical exposure limit (NCEL) provision listed in the TSCA section 5(e) Order for this substance. The NCEL is 4 mg/m3 as an 8-hour time weighted average. Persons who wish to pursue NCELs as an alternative to § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCELs approach are approved by EPA will be required to follow NCELs provisions comparable to those contained in the corresponding TSCA section 5(e) Order.

(B) [Reserved]

(ii) *Hazard communication.* Requirements as specified in§ 721.72(a), (b), (c), (d), (e)(concentration set at 1.0%), (f), (g)(1)(iv), (viii), (ix), (g)(2)(ii), (iii), (iv) (use respiratory protection or maintain workplace airborne concentrations below an 8-hour timeweighted average of 4 mg/m^3), (g)(2)(v), (g)(4)(i), (ii) and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k) and (q).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N = 30 ppb.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

§ 721.11117 Aliphatic polyester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as aliphatic polyester (PMNs P–16–316 and P–16–317) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a significant new use to manufacture the chemical substances with less than the confidential average molecular weight identified in the Order for the chemical substances and containing greater than the confidential percentage of molecular weight species less than 500 daltons identified in the Order for the chemical substances.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are

applicable to manufacturers and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(i) of this section.

§ 721.11118 Modified acrylic polymer (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as modified acrylic polymer (PMN P–16–342) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the chemical substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Hazard communication.* Requirements as specified in § 721.72(a), (b), (c), (d), (e)(concentration set at 1.0%), (f), (g)(1)(ii), (g)(2)(ii), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use for any use other than as a dispersant for deflocculation of pigments in industrial paints and coatings. It is a significant new use for any use in the paint/coating formulation at concentration greater than 1.0% by weight or volume. It is a significant new use for any use of the substance that would allow inhalation exposure to the substance by vapor, dust, mist or aerosols at concentrations greater than 1.0% by weight or volume.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (f), (g), (h), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11119 Functionalized polyimide and functionalized polyamide (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as functionalized polyimide (PMN P–16–406) and functionalized polyamide (PMN P–16–407) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the chemical substances after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k), (y)(1) and (2). It is a significant new use to use the substances other than for the specific uses identified in the Order. It is a significant new use to use any manufacturing process that results in inhalation exposure to the substances.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11120 Siloxanes and Silicones, di-Me, 3-hydroxypropyl Me, Me 3,3,4,4,5,5,6,6,6-nonafluorohexyl.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as siloxanes and silicones, di-Me, 3-hydroxypropyl Me, Me 3,3,4,4,5,5,6,6,6-nonafluorohexyl (CAS: 1610862–54–8) (PMN P–16–413) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements are described in § 721.80(f) and (p)(40,000 kilograms and 151,300 kilograms). It is a significant new use to process or use the chemical substance in a manner that results in inhalation exposure to spray, mist or aerosol.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

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

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11121–721,11122 [Reserved]

§ 721.11123 Carboxylic acids, C6-18 and C8-15-di-, polymers with diethylene glycol, glycerol, oleic acid, phthalic, acid and sorbitol.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as carboxylic acids, C6-18 and C8-15-di-, polymers with diethylene glycol, glycerol, oleic acid, phthalic, acid and sorbitol (CAS No. 1877295–51–6) (PMN P–16–570) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (ii), (iii), (iv), (a)(3), (when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible), (b)(concentrations set at 1.0%) and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a), (b), (c), (d), (e)(concentration set at 1.0%), (f), (g)(1)(vi), (ix), (g)(2)(i), (ii), (iii), (v), (g)(3)(i), (g)(4)(iii) and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q). It is a significant new use to use the substance other than as an aromatic polyester polyol for manufacturing rigid foam. It is a significant new use to manufacture the substance with residual phthalate greater than 0.1% by weight. It is a significant new use to modify the manufacturing, processing or use activities of the PMN substance to result in the generation of a vapor, mist or aerosol.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

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

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

[FR Doc. 2019–23389 Filed 10–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2019–0062; FRL–9999–56]

Mandipropamid; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of mandipropamid in or on cacao, dried bean. Syngenta Crop Protection, LLC requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective October 28, 2019. Objections and requests for hearings must be received on or before December 27, 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–2019–0062, 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 L. Goodis, P.E., 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.*

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–2019–0062 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 December 27, 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–2019–0062, 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 June 7, 2019 (84 FR 26630) (FRL–9993–93), 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 9F8733) by Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419. The petition requested that 40 CFR 180.637 be amended by establishing tolerances for residues of the fungicide mandipropamid in or on cocoa bean at 0.05 parts per million (ppm). That document referenced a summary of the petition prepared by Syngenta Crop Protection, LLC, 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 the tolerance at 0.06 ppm in or on cacao, dried bean. The reason for this change is explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes

exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

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

A. Risk Assessment

In the **Federal Register** of March 22, 2019 (84 FR 10695) (FRL–9987–25), EPA established tolerances for residues of mandipropamid in or on several commodities. Because much of the safety assessment of mandipropamid for the current action remains the same, EPA is incorporating several aspects of that previous rule and relying in part upon the findings made in the March 22, 2019 final rule in support of this action.

A summary of the toxicological profile and endpoints used for human risk assessment is discussed in Units III.A. and III.B of the March 22, 2019 final rule. In evaluating dietary exposure for this action, EPA considered exposure under the petitioned-for tolerances as well as all existing mandipropamid tolerances in 40 CFR 180.637. The exposure assumptions used to assess the mandipropamid tolerances remain the same as discussed in the March 22, 2019 final rule, except to incorporate the exposure associated with the tolerance on cacao, dried beans, for which the Agency assumed 100 percent crop treated and tolerance-level residues. For a summary of those exposure assumptions, see Unit III.C.1 of the March 22, 2019 final rule. In addition, because there is no U.S. registration associated with the use of mandipropamid on cacao, dried beans, the estimated drinking water exposures reported in the March 22, 2019 final rule remain the same for this rule. A summary of EPA's assessment of drinking water exposure is discussed in Unit III.C.2. of the March 22, 2019 final rule. Similarly, the Agency's assessment of cumulative risks remains the same as in the March 22, 2019 final rule.

Because there have been no changes to the potential for prenatal and postnatal toxicity or in the completeness of data with respect to toxicity and exposure, EPA has determined that reliable data show the safety of infants and children would be adequately protected if the additional tenfold (10X) margin of safety required under section 408(b)(2)(C) (''FQPA safety factor'') were reduced to 1X. A summary of EPA's rationale for this determination is discussed in Unit III.D. of the March 22, 2019 final rule.

B. Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute population-adjusted dose (aPAD) and chronic population-adjusted dose (cPAD). Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate points of departure to ensure that an adequate margin of exposure exists.

No acute effects were identified in the toxicological studies for mandipropamid; therefore, a quantitative acute dietary exposure assessment was not conducted. The chronic dietary risk is 31% of the cPAD for the general U.S. population and 49% of the cPAD for children 1 to 2 years old, the population subgroup with the highest estimated chronic dietary exposure to mandipropamid. The Agency level of concern is percentage numbers greater than 100% of the cPAD. Mandipropamid is not registered for any specific use patterns that would result in residential exposure. Therefore, all aggregate risk estimates are expected to be equivalent to the dietary (food and drinking water) risk estimates mentioned above.

Therefore, 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 mandipropamid residues.

Mandipropamid is classified as ''Not Likely to be Carcinogenic to Humans.'' Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

For a detailed discussion of the aggregate risk assessments and determination of safety for these tolerances, please refer both to the March 22, 2019 final rule and its supporting documents, available at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2017–0671, and to the risk assessment for this current action, ''*Mandipropamid. Human Health Risk Assessment to Support the Proposed Establishment of a Tolerance for the Fungicide (without Section 3 Registration) in/on Imported Cacao Beans.*'' in docket ID number EPA–HQ–OPP–2019–0062.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology, using method RAM 415/02, for the determination of mandipropamid using high-performance liquid chromatography with tandem mass spectrometric detection (LC/MS/MS), is available to enforce the tolerance. The method has been adequately validated by an independent laboratory, with a validated limit of quantitation (LOQ) of 0.010 ppm and a limit of detection (LOD) of 0.002 ppm in the crops tested.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

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 an MRL for mandipropamid in cacao, dried bean.

C. Revisions to Petitioned-For Tolerances

The tolerance definition was revised from ''cocoa bean'' to ''cacao, dried bean'' in accordance with tolerance naming conventions. EPA has revised the tolerance level for mandipropamid residues in cacao, dried bean based on the review conducted by the European Food Safety Authority (EFSA) (*Setting*

of an import tolerance for mandipropamid in cocoa beans; A. Brancato *et al;* 31 October 2018). The EFSA review addresses the same use pattern and residue data submitted to the EPA to support this use, so the tolerance being established is harmonized with EFSA's recommended MRL (0.06 mg/kg).

V. Conclusion

Therefore, tolerances are established for residues of mandipropamid, in or on cacao, dried bean at 0.06 ppm.

VI. Statutory and Executive Order Reviews

This action establishes 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 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: October 11, 2019.

Daniel Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.637, add alphabetically the commodity ''Cacao, dried bean'' to the table in paragraph (a) to read as follows:

§ 180.637 Mandipropamid; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Cacao, dried bean [1]	0.06
* * * * *	

[1] There are no U.S. registrations allowing use of mandipropamid on cacao as of October 28, 2019.

* * * * *

[FR Doc. 2019–23360 Filed 10–25–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 162

[CMS–0054–F]

RIN 0938–AT42

Administrative Simplification: Rescinding the Adoption of the Standard Unique Health Plan Identifier and Other Entity Identifier

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: This final rule rescinds the adopted standard unique health plan identifier (HPID) and the implementation specifications and requirements for its use and the other entity identifier (OEID) and implementation specifications for its use. This final rule also removes the definitions for the ''Controlling health plan'' (CHP) and ''Subhealth plan'' (SHP).

DATES: This final rule is effective on December 27, 2019.

FOR FURTHER INFORMATION CONTACT: Lorraine Doo, (410) 786–6597 or *Lorraine.Doo@cms.hhs.gov.*

Brian James, (301) 492–4234 or *Brian.James@cms.hhs.gov* for questions regarding the Health Plan and Other Entity Enumeration System (HPOES).

SUPPLEMENTARY INFORMATION:

I. Background

Section 262 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub. L. 104–191) added section 1173 to the Social Security Act (the Act), which requires that the Secretary of the Department of Health and Human Services (HHS or the Secretary) adopt a standard unique health plan identifier.

Congress renewed the requirement for the Secretary to adopt a standard unique

health plan identifier in section 1104(c)(1) of the Patient Protection and Affordable Care Act (Pub. L. 111–148) (as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) and collectively known as the Affordable Care Act or ACA) by requiring the Secretary to promulgate a final rule to establish a unique health plan identifier, as described in section 1173(b) of the Act and based on the input of the National Committee on Vital and Health Statistics (NCVHS), no later than October 1, 2012.

In compliance with that Affordable Care Act requirement, in the September 5, 2012 **Federal Register** (77 FR 54664), we published a final rule titled ''Administrative Simplification: Adoption of a Standard for a Unique Health Plan Identifier; Addition to the National Provider Identifier Requirements; and a Change to the Compliance Date for the International Classification of Diseases, 10th Edition (ICD–10–CM and ICD–10–PCS) Medical Data Code Sets'' (hereafter referred to as the September 2012 final rule). The September 2012 final rule adopted a standard unique health identifier for health plans (the HPID) and an ''other entity identifier'' (the OEID) for an entity that is not a health plan, individual, or health care provider, but that needs to be identified in a HIPAA transaction. Entities that qualified for an OEID were not required to obtain or use that identifier.

Soon after publication of the September 2012 final rule, industry stakeholders, in particular, health plans, identified a number of implementation challenges with the policy. Health plans and their provider trading partners provided substantial input to HHS and the NCVHS about barriers to implementation of the HPID. Stakeholders informed HHS that the HPID was not needed for routing HIPAA transactions nor did it provide information about health plan products and benefits. Further, they stated it would not reduce the cost of managing financial and administrative information, and that if they were to implement the HPID, it would impose significant costs instead of decreasing them. Stakeholders also indicated that the OEID had minimal value and stated they were confused about the enumeration, purpose, and use of the OEID. Since 2014, only 99 organizations have applied for and received OEIDs.

Based on industry's concerns about the September 2012 final rule, HHS issued a statement of enforcement discretion in October 2014,[1] which delayed enforcement of the requirements pertaining to HPID enumeration and use of the HPID in the HIPAA transactions. Enforcement discretion meant that HHS would not impose penalties if it determined a covered entity was out of compliance with the September 2012 final rule. Between 2014 and 2018, HHS continued to receive input from stakeholders and from the NCVHS, requesting that the regulatory mandate for the HPID be removed.

In the December 19, 2018 **Federal Register** (83 FR 65118), we published a proposed rule titled ''Administrative Simplification: Rescinding the Adoption of the Standard Unique Health Plan Identifier and Other Entity Identifier'' (hereafter referred to as the December 2018 proposed rule). There, we provided an overview of the HPID history, and described industry testimony and recommendations to the NCVHS and the NCVHS's recommendations to us about the HPID. We included specific information from stakeholders to the NCVHS that the HIPD and OEID did not, and could not, serve the purposes for which they had been adopted. In addition, we included the NCVHS's September 23, 2014 recommendation to us that the HIPD not be used in administrative transactions. We also committed to exploring options for a more effective standard unique health plan identifier in the future, and with respect to which we would collaborate with stakeholders in an open process (83 FR 65122). For more detailed information about the industry response to the adoption of the HPID and OEID and the NCVHS's recommendations to us, see the December 2018 proposed rule (83 FR 65119 through 65122).

II. Provisions of the Proposed Rule and the Analysis of and Responses to Public Comments

As stated previously, the HPID and OEID were adopted in the September 2012 final rule under the statutory authorities of HIPAA and the Affordable Care Act. In the December 2018 proposed rule, we described how we came to understand, based on recommendations from the NCVHS and overwhelming industry input, that the HPID and OEID do not meet the need for which they were adopted. Therefore, we proposed to remove Subpart E—Standard Unique Health Identifier for Health Plans at 45 CFR part 162. We also proposed to remove the definitions of ''Controlling health plan'' (CHP) and ''Subhealth plan'' (SHP) at 45 CFR 162.103 as those terms are integrally related to the HPID requirements, without which they would have no application (83 FR 65123).

Finally, we proposed that if we finalized our proposal to rescind the HPID and OEID, we would deactivate each HPID and OEID record in the Health Plan and Other Entity Enumeration System (HPOES) on behalf of each enumerated entity, as opposed to each entity having to do so itself, and would notify the manager of record at the current email address in the system (83 FR 65123). In addition, we proposed to store the identifiers for 7 years in accordance with federal recordkeeping requirements, and proposed that we would not regulate any actions entities may take with their existing HPID and OEID identifiers, such that they would be free to retain and use these identifiers at their own discretion (83 FR 65123). We welcomed comments on all of our proposals.

In response to the December 2018 proposed rule, we received 19 pieces of timely correspondence from major associations representing health plans, self-funded group employer plans, and providers, as well as from large vendors and other individual organizations. All of the timely submissions supported our proposal to rescind the HPID and OEID and remove the definitions of CHP and SHP, while the late commenter opposed our proposal to rescind the identifiers. Several commenters supported our proposal that we deactivate the identifiers on behalf of the entities that had obtained them. Most of the commenters thanked us for our proposal to rescind the HPID and OEID and for HHS's continued efforts to reduce administrative burden on clinicians so they can focus on providing patient care.

Commenters' main points included the following:

- A preference for use of Payer IDs.
- No need for, or value in, the HPID.
- Reducing the burden on self-funded groups or health plans.
- The cost of implementing the HPID.
- Communications about the deactivation of the HPIDs/OEIDs.
- The importance of industry engagement in any future discussions about appropriate business or use cases for a standard health plan identifier.

A summary of the public comments received, and our responses follow.

[1] Statement of Enforcement Discretion regarding 45 CFR 162 Subpart E—Standard Unique Health Identifier for Health Plans *https://www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/Unique-Identifier/HPID.html.*

A. Use of the HPID vs. Payer IDs

In the December 2018 proposed rule, we provided an overview of stakeholder feedback regarding adoption of the HPID, explaining that the industry had developed best practices for the use of Payer IDs, which are non-HIPAA-based industry-derived identifiers, for purposes of conducting the HIPAA transactions, and that the HPID did not have a place in these transactions (83 FR 65122). We explained that stakeholders stated that the organizations that need to be identified in HIPAA transactions are the payers rather than the health plans, and that industry is successfully routing transactions using the Payer IDs and could not use the HPID to do so (83 FR 65122).

Comment: Several commenters stated that they appreciated HHS acknowledging the distinction between the HPID and Payer IDs, the industry's use of, and reliance on, Payer IDs in the HIPAA transactions, and the impact of having to accommodate a new identifier. A commenter noted that Payer IDs are the common denominator for payers, physicians, and the patients they serve, that permit entities to communicate effectively using HIPAA electronic transactions such as claims, eligibility, claim status, and enrollment. Another commenter wrote that, in general, the need for a health plan identifier changed between the enactment of HIPAA and HHS's adoption of the HPID. As industry gained experience with the transaction standards adopted under HIPAA, it was able to resolve, via Payer IDs, the issue of identifying the payer for routing transactions. Commenters explained that, at this point, the HPID would have been an impediment to the effective use of the HIPAA transactions. One large provider group wrote that, while the HPID had been intended to solve routing issues identified at the time HIPAA was enacted in 1996, in today's environment, using the Payer IDs, providers no longer experienced routing issues. This group further noted that expending resources on implementing the HPID would be wasteful and would hurt the industry, including providers, vendors, clearinghouses, and payers.

Response: We have acknowledged that industry is effectively using Payer IDs to route and exchange the HIPAA transactions, and appreciate the confirmation from commenters. This final rule rescinds the HPID and the implementation specifications and requirements for its use.

Comment: A commenter opposed the proposal to rescind the HPID, stating that removal of the identifiers would create more ambiguity for health care claims transactions and would obscure relationships between financially responsible entities. The commenter stressed the importance of a provider's ability to determine the entity that will be receiving eligibility requests and the entity that is financially responsible to remit payment for covered healthcare services.

Response: We acknowledged in the December 2018 proposed rule that covered entities will need to know how each party to a transaction is identified and which parties are financially responsible or will be able to respond to the transactional inquiries. According to the input we received over the past several years from health plans and providers, Payer IDs adequately identify the entity that will receive the eligibility request, be financially responsible for the claim, and remit payment. Other commenters confirmed that Payer IDs are used successfully to route transactions for these specific purposes. Within these transactions, Payer IDs identify the payer that has responsibility for the information identified in this comment (that is, routing and receiving an eligibility request or bearing financial responsibility for a claim) and other relevant information needed by the receiver. Not only do the views of stakeholders and the recommendations from the NCVHS presented to us for several years consistently run counter to this commenter's views, we also note that, due to the continuing enforcement discretion, the HPID has not seen widespread implementation, thus we question how its rescission could create ambiguity or obscure the relationships between covered entities. Nevertheless, the commenter reminds us of the critical importance of maintaining an industry-wide perspective as we explore future rulemaking pertaining to the HIPAA transactions and a unique health plan identifier.

Comment: A commenter opposed the rescission of the HPID on the basis that the HPID—(1) should be included in contractual arrangements between health plans, payers, and third-party service providers when these organizations act on behalf of self-funded employers; and (2) is important to identify the entity that has financial control or responsibility and to whom the provider may need to appeal for adverse benefit determinations.

Response: We note that the health care system is complex, particularly with respect to the arrangements between self-funded employer groups, health plans, third-party administrators, and providers. The NCVHS hearings and other public forums have yielded no information supporting the use of the HPID by self-funded employer groups or their business associates, while, by contrast, self-funded employer groups have consistently opposed the use of HPID. In response to the December 2018 proposed rule, other commenters confirmed that use of the HPID would have increased costs not only to their members, but also to providers, and that the HPID would not have improved transactions or information exchange. Rather, they reiterated that continued use of Payer IDs by their business associates on their behalf was the appropriate and correct technical and business solution.

B. Use of the OEID

We adopted the OEID because we believed that entities that were not health plans, but identified in HIPAA transactions in a manner similar to health plans, could use the OEID in HIPAA transactions, which we believed would increase standardization (77 FR 54665). Since publication of the September 2012 final rule, 99 OEIDs have been assigned in the HPOES. We do not have any information regarding actual use of the OEID in the HIPAA transactions.

Comment: Several commenters stated that there was no value or efficiency gained from using the OEID if an organization provided one in a transaction. A few commenters strongly agreed with our proposal that the identifier was not necessary or useful; however, they did not provide specific details in their written comments.

Response: We thank the commenters for their feedback. We also believe the low number of applications for OEIDs is an indicator that the OEID does not provide the intended value. We are finalizing our proposal to rescind the OEID as well.

C. Costs of the HPID

Comment: Several commenters stated that the cost of implementing the HPID would have outweighed the benefits. Most of the commenters agreed that there was no return on investment for implementing the HPID because Payer IDs already serve the purpose of routing transactions. Some commenters reiterated what HHS stated in the December 2018 proposed rule regarding the costs and burden of mapping the existing Payer IDs to HPIDs. Some of these commenters from self-funded employer groups stated that they do not perform most health care transactions, such as eligibility determinations, claims status, or EFT and remittance advice, but, rather, they engage third party administrators (TPAs) to do so on

their behalf. Therefore, compliance with the HPID final rule would have involved new administrative procedures and would have required extensive coordination with multiple TPAs, with the administrative and cost burden greatly outweighing any utility of the HPID.

A few commenters praised the proposal and commented that, for large organizations with numerous subparts, the HPID enumeration burden was far greater and more complex than HHS had envisioned when the HPID was adopted. These commenters explained that the HPID enumeration was further complicated by confusion about the requirements for self-funded, fully insured, and combination fully insured and self-funded groups. The commenters wrote that the policy resulted in high implementation cost projections that would have yielded little to no return on investment. The commenters believe that the traditional payers and TPAs supporting these groups would have incurred considerable cost that they likely would have passed on to the provider community had HPIDs been required in standard transactions. These commenters also confirmed that existing Payer IDs were sufficient to identify the payer and any other information needed to process HIPAA transactions.

Response: We are confirming our cost/benefit analysis that the costs to implement the HPID outweigh the return on investment. We reiterate in the Regulatory Impact Analysis that certain assumptions we made in the estimates of the 2012 proposed and final rules may have been misplaced or did not come to fruition, and that other activities have provided cost savings benefits for industry. This final rule yields cost avoidance for covered entities.

D. Definitions

We proposed to remove the definitions of controlling health plan (CHP) and subhealth plan (SHP) at 45 CFR 162.103 because those terms were established in association with, and were integrally related to, the HPID requirements and would no longer have application were the HPID and OEID rescinded.

Comment: A few commenters supported the proposal to remove the definitions of CHP and SHP.

Response: We thank the commenters for their support and are finalizing our proposal to remove the definitions.

E. Deactivation of HPIDs and OEIDs

We proposed to deactivate each HPID and OEID record in the Health Plan and Other Entity Enumeration System (HPOES) on behalf of each enumerated entity, and to notify the manager of record at the current email address in the system. In addition, we proposed to store the numbers for 7 years and to permit entities with HPIDs and OEIDs to retain and use them at their own discretion, such that HHS would not regulate any actions entities take with these existing identifiers (83 FR 65123).

Comment: Several commenters supported HHS's proposed role in the deactivation of HPIDs and OEIDs. A commenter requested that HHS consider notifying all authorized users on file for each HPID and OEID in HPOES in the event the individual in our records may have left an entity or changed email addresses. Another commenter suggested that HHS publicly notify the industry upon completion of the deactivation of the identifiers.

Response: We appreciate the support of our proposal to deactivate HPIDs and OEIDs on behalf of the entities who obtained them. We also agree that it is important to communicate effectively (widely broadcast) to the stakeholder community after we complete the deactivation process and thank the commenter for that suggestion.

HIOS is the Health Insurance Oversight System—a secure HHS web-based application that collects and stores information about health plans, insurance companies, and issuers for national programs. HPOES is a HIOS module that assigns and manages HPIDs and OEIDs. On or after the publication date of this final rule in the **Federal Register**, HHS will send an email notice to all active HIOS users explaining the deactivation of the HPIDs and OEIDs and the upcoming HPOES changes. We recognize that many HIOS users will not have enumerated for an HPID or OEID, but know it is likely that many personnel, roles, and organizational affiliations may have changed since entities enumerated (obtained their identifiers). Therefore, transmitting this information to all active HIOS users will ensure that our first communication regarding the HPID deactivation process reaches the greatest number of potentially affected entities and individuals. Through outreach to HIOS users, we believe the information about the pending HPID and OEID deactivation will most effectively reach appropriate individuals in each enumerated entity.

On or after the effective date of the final rule, HHS will deactivate all HPIDs and OEIDs. The HPOES module will remain open for an additional 60 days after HPID and OEID deactivation for viewing by HPOES module users to enable entities to capture data about their HPID or OEID.

On or after the effective date of the final rule, HHS will also do the following:

- Post a notice on the HPOES homepage and the Centers for Medicare & Medicaid Services (CMS) website indicating that the deactivation for HPIDs and OEIDs has occurred and that new HPID and OEID applications will no longer be accepted. The notices will provide contact information for a help desk and the HHS administrative simplification office email.
- Send an email to HPOES module users informing them that all HPID and OEID numbers have been deactivated and that the HPOES system will remain open for 60 days to view information.
- Update the CMS website with information about the HPID and OEID deactivation activities and timeline.

Comment: A few commenters stated that, upon deactivation of the HPIDs and OEIDs within the HPOES, the infrastructure to support the numbers would be removed and any HPIDs and OEIDs remaining in use would be rogue numbers operating outside the framework for standard code sets and electronic transactions for which HIPAA was intended. These commenters requested that HHS consider terminating the use of the HPIDs and OEIDs at the same time as their deactivation. They also suggested that, if there is a need to continue using the HPIDs and OEIDs for a period of time, the cases for use be clearly defined. The commenters requested that HPIDs and OEIDs be excluded from use within standard electronic transactions after termination.

Response: In the December 2018 proposed rule, we proposed that entities with HPIDs and OEIDs could retain and use these identifiers at their own discretion and that HHS would not regulate any actions entities take with their existing HPIDs and OEIDs (83 FR 65123). We appreciate the commenters' concerns regarding the need to define use cases for HPIDs and OEIDs after deactivation and agree that, to ensure the effectiveness of the HIPAA transactions and drive efficiency, trading partners should collaborate and agree upon the best identifiers for exchanging and routing transactions.

We have no indication that entities are using the HPIDs for any other purposes at this time. We did not receive sufficient input to warrant developing additional policies regarding the use of deactivated HPIDs or OEIDs for other purposes once the HPOES module is closed, but we will monitor our administrative simplification email

box and the complaint system for any indications of issues.

F. Industry Input on a Possible Future Standard Unique Health Identifier for Health Plans

In the proposed rule, we acknowledged there are statutory requirements that HHS adopt a standard unique health identifier for health plans, and that we look forward to future industry and NCVHS discussions of appropriate use or business cases regarding such an identifier that might reduce costs or burden on covered entities (83 FR 65123).

Comment: A commenter stated that, given the uncertainty and confusion about the HPID and its enumeration scheme, they strongly supported our proposal to engage industry and provide an opportunity for public input regarding any consideration of a future standard identifier for health plans. Another commenter echoed the concerns about the uncertainty of the HPID, and indicated that HIPAA requires HHS to take into account multiple uses for a health plan identifier and to specify the purposes for which such an identifier may be used. These commenters indicated that it would be very difficult to use one identifier for multiple business use cases if the use cases are not compatible. The commenters urged HHS to confer with stakeholders before considering future alternatives or proposing any future uses of an identifier, particularly if the identifier would be used for multiple purposes.

Response: We appreciate the willingness of industry to engage on this topic of unique health plan identifiers in the future. We encourage stakeholders to continue considering business cases for a standard health plan identifier and to share those options with the Secretary or NCVHS.

After review of the public comments received, we are finalizing our proposals to remove Subpart E—Standard Unique Health Identifier for Health Plans at 45 CFR part 162, as well as the definitions of ''Controlling health plan'' (CHP) and ''Subhealth plan'' (SHP) at 45 CFR part 162.103 without modification. In this final rule, we are also affirming that HHS will conduct the deactivation activities on behalf of the enumerated entities and communicate to affected organizations and stakeholders about the deactivation process.

III. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*).

However, it must be noted that the information collection request (ICR) associated with the HPID was previously approved under OMB control number 0938–1166 and subsequently expired May 31, 2016. HHS incurred a violation of the PRA when the ICR expired. As stated earlier in this document, we proposed to rescind the adoption of the HPID and the other entity identifier (OEID) along with the implementation specifications and requirements for the use of the HPID and OEID; therefore, we are not seeking to reinstate the ICR previously approved under 0938–1166.

IV. Regulatory Impact Statement

We have examined the impact of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), the Congressional Review Act (5 U.S.C. 804(2)), and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs (January 30, 2017).

Executive Orders 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). A Regulatory Impact Analysis (RIA) is prepared for major rules with economically significant effects ($100 million or more in any 1 year). This rule does not reach the economic threshold and is not considered a major rule, thus we are not required to prepare an RIA. We provided a detailed history of the events leading to this final rule in the December 2018 proposed rule (83 FR 65120). We discuss our approach to Executive Order 12866 and demonstrate that this rule would not have economically significant effects because it not only removes requirements perceived by industry as burdensome, but it rescinds a regulation that, as a practical matter, was never operationalized or implemented by industry and thus had no demonstrable costs or savings. This final rule has been determined to be a qualitatively deregulatory action.

The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than $7.5 million to $38.5 million in any 1 year. Individuals and states are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined, and the Secretary certifies, that this final rule would not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare an RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area for Medicare payment regulations and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this final rule would not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2019, that threshold is approximately $154 million. This final rule will have no consequential effect on state, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a final rule that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. Since this regulation does not impose any costs on state or local governments, the requirements of Executive Order 13132 are not applicable.

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs was issued on January 30, 2017, and requires that the costs associated with significant new

regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' This final rule is an E.O. 13771 deregulatory action. Details on the estimated cost savings of this final rule are stated in the rule's economic analysis.

A. Cost and Savings

As stated previously, and shown in this section, we estimate that this final rule will not have economically significant effects on industry. We again point readers to the September 2012 final rule where we referred to the large measure of uncertainty in the assumptions of our original impact analysis. In some cases, we indicated that the HPID would be ''foundational'' to subsequent activities such as the automation of the Coordination of Benefits (COB) process (77 FR 54705). In other cases, we stated that the costs and benefits associated with the HPID were applicable only to entities that are directly involved in sending or receiving HIPAA transactions and that the cost estimates were based on the number of health plans that would use the HPID in the transactions. However, we did not have data on how health plans were being identified in HIPAA transactions (77 FR 54703). Therefore, we stated that we had no assurance of how many health plans would use the HPID in standard transactions, and took a conservative approach to the costs to health plans. We were aware that covered entities were using Payer IDs to identify the health plan or the responsible entity in transactions. Although a few commenters did not agree with the methodology we chose for our cost analysis in the April 2012 proposed rule, we did not alter it in the September 2012 final rule.

With respect to the estimated cost and benefits of implementation and use of the HPID, the December 2018 proposed rule reiterated the narrative from the April 2012 proposed rule, where we explained that the HPID would be foundational to other administrative simplification initiatives, both those initiated by industry, and those regulated by State or Federal governments. In the 2012 rulemaking, we suggested that if other initiatives did not follow, then the HPID would likely have little substantive impact (77 FR 22977). We explained that the HPID was intended to enable other initiatives, and would have been part of the larger picture of standardizing billing and insurance-related transactions and tasks (77 FR 54703). The HPID did not have the benefits or savings anticipated in the 2012 rulemaking, in part because of the longstanding enforcement discretion, and in part because industry identified other strategies to increase efficiency in how they conducted those transactions and other administrative functions.

In the April 2012 proposed rule, we stated that the possible cost and benefit impacts were reflective of the uncertainty inherent in the health care industry. To illustrate the foundational aspects of the HPID, we estimated its implementation might contribute to a: (1) 1 to 2 percent per year, for 10 years, increase in the use the eligibility for a health plan and health care claims status transactions; and (2) 1 to 3 percent increase in the use of the electronic health care electronic funds transfers (EFT) and remittance advice transaction, as routing of those transactions is especially important for the payment process (77 FR 22977). However, despite our exercise of enforcement discretion with respect to HPID compliance, the use of all three of these transactions has modestly increased, and we believe our assumptions that use of the HPID would contribute to an increase in the use of those transactions were incorrect. As we explained in the December 2018 proposed rule, some of the increases (and therefore savings) might have been due to the use of the adopted operating rules, while some might have been due to improved system capabilities.

The Council for Affordable Quality Healthcare (CAQH) conducts a study each year (the CAQH Index) to assess the utilization of the administrative transactions and operating rules, and tries to identify savings opportunities from their use. The most recent report from 2018 continues to show progressive adoption of the eligibility for a health plan, health care claim status, and health care electronic funds transfers (EFT) and remittance advice transactions. Entities conducting these transactions use Payer IDs for routing, other payer, and health plan identification purposes. While this study only includes those health plans and providers that participate by providing data, it remains indicative of a positive trend in the utilization rate for these transactions *without* the HPID. Table 1 shows the steady increase in industry's use of the three transactions over 6 years, which includes the 4 years when the HPID rule was in effect but, we believe, not in use due to the ongoing enforcement discretion. Recently, there has been a slight decline in use of the remittance advice transaction. CAQH is working with providers and health plans to understand reasons for that decrease in use.

TABLE 1—CAQH STUDY PARTICIPANT ADOPTION RATE OF CERTAIN STANDARD TRANSACTIONS *

	Claim status (fully electronic) (%)	Eligibility (%)	Remittance advice (%)
2013	48	65	43
2014	50	65	46
2015	57	71	50
2016	63	76	55
2017	69	79	56
2018	71	85	48

* CAQH 2018 Efficiency Index, *https://www.caqh.org/sites/default/files/explorations/index/report/2018-index-report.pdf.*

We cannot attribute other cost savings to this final rule because we do not anticipate any system transition costs, testing, or other conversion costs related to the deactivation of the identifiers. Consistent with our statements in the December 2018 proposed rule, covered entities did not make expenditures to prepare for use of the HPID during the enforcement discretion period. Organizations also did not execute new contracts for the services of software system vendors, billing companies, transaction vendors, and/or health care clearinghouses to facilitate the transition to the HPID. We invited industry comment on our assumptions regarding the cost estimates, and received support for the assumption that the costs would have outweighed the benefits of implementing the HPID.

Comment: Several commenters supported our analysis in the December 2018 proposed rule, suggesting that the cost of implementing the HPID would have outweighed any benefits. These commenters agreed that there was no return on investment for implementing the HPID because Payer IDs already serve the purpose of routing transactions. The commenters also noted that it would have been costly, complicated, and burdensome to implement the HPID because it would have required the mapping of existing Payer IDs to HPIDs. Specifically, a commenter stated it did not perform most health care transactions itself and, instead, engaged TPAs to perform these functions on its behalf. The commenter noted that complying with the HPID final rule would have required new and costly administrative procedures and extensive coordination with multiple TPAs that would have outweighed the utility of the HPID.

Response: We thank commenters for validating our updated assumptions in the December 2018 proposed rule impact analysis regarding the lack of a return on investment from the September 2012 final rule. The commentary from stakeholders regarding the cost of HIPD implementation and the inability to demonstrate an improvement in administrative efficiencies from such implementation has been consistent for several years, as demonstrated by review of the HPID testimony on the NCVHS website at *https://ncvhs.hhs.gov/meetings/agenda-of-the-may-3-2017-ncvhs-subcommittee-on-standards-hearing-on-health-plan-identifier-hpid/* or the December 2018 proposed rule at 83 FR 65118.

1. Costs

The federal government has already expended certain operating funds, as have those organizations that applied for and obtained an HPID or OEID. For example, the federal government spent $1.5 million to build the components of the enumeration system and spent $45,000 annually for operations and maintenance through 2018. As we stated in the December 2018 proposed rule, we cannot account for industry legal or administrative expenditures in the analysis of the number or type of HPIDs or OEIDs obtained following publication of the September 2012 final rule.

Costs associated with the deactivation—preparing communications, posting alerts on the HPOES web page, updating the DNS website, and programming to turn off system access to the HPOES module—are considered agency operating costs that HHS will absorb, without the need for additional funds.

2. Savings (Cost Avoidance)

We believe that this final rule rescinding the HPID and OEID will yield modest savings (cost avoidance). First, as enforcement discretion remains in effect, we assume there are no new costs for health plan or other entity enumeration of new health plans or other entities. In the December 2018 proposed rule, we acknowledged that some of the assumptions in our 2012 rulemaking were outdated and requested industry feedback on our use of those assumptions for purposes of the analysis, but received no comments. Therefore, we are using the same data to confirm that this final rule provides a modest savings/cost avoidance.

Based on the data in Chart 2 of the April 2012 proposed rule (77 FR 22970), and reprinted here for reference, we estimated there would be up to 15,000 entities that would be required, or would elect, to obtain an HPID or OEID.

TABLE 2—NUMBER AND TYPE OF ENTITIES THAT WERE EXPECTED TO OBTAIN AN HPID OR OEID

Type of entity	Number of entities
Self-insured group health plans, health insurance issuers, individual and group health markets, HMOs including companies offering Medicaid managed care	* 12,000
Medicare, Veterans Health Administration, Indian Health Service	** 1,827
TriCare and State Medicaid programs	60
Clearinghouses and Transaction vendors	*** 162
Third Party Administrators	**** 750
Total	15,000

* Report to Congress: Annual Report on Self-Insured Group Health Plans by Hilda L. Solis, Secretary of Labor, March 2011.

** Patient Protection and Affordable Care Act; Standards Related to Reinsurance, Risk Corridors, and Risk Adjustment, July 8, 2011 **Federal Register** (76 FR 40458) referencing data from *www.healthcare.gov.*

*** Health Insurance Reform; Modifications to the Health Insurance Portability and Accountability Act (HIPAA) Electronic Transaction Standards; Proposed Rule, *http://edocket.access.gpo.gov/2008/pdf/E8-19296.pdf,* based on a study by Gartner.

**** Summary of Benefits and Coverage and the Uniform Glossary; Notice of Proposed Rulemaking, *http://www.gpo.gov/fdsys/pkg/FR-2011-08-22/pdf/2011-21193.pdf.*

As we stated in the December 2018 proposed rule, slightly fewer than 11,000 entities applied for and obtained an HPID immediately following publication of the September 2012 final rule. We explained the cost calculation for enumeration in the April 2012 proposed rule (77 FR 22970). Health plans and other entities were required to complete the application or update form online through the HPOES. We received most applications shortly after publication of the September 2012 final rule, subsequent to which the application rate slowed considerably. Between May 2016 and May 2017 we received only 156 applications for HPIDs, and, since the December 2018 proposed rule was published, we have received only 5 applications.

The HPID and OEID application is a one-time burden, and for purposes of this impact analysis, we estimated the impact of eliminating that burden.

The cost avoidance calculation associated with rescinding the HPID and OEID is premised upon the same method that we used to estimate the cost to apply for an HPID or OEID. We estimated that it took 30 minutes to complete the online application or make updates, and used an hourly labor rate of approximately $23/hour, the average wage reported for professional and business services sector, based on data from the Department of Labor, Bureau of Labor Statistics, June 2011, ''Average hourly and weekly earnings of production and nonsupervisory employees (1) on private nonfarm payrolls.'' (*https://www.bls.gov/news.release/empsit.t24.htm*). If we increase the rate to account for 2018 dollar values (March 2018 table), to $31/hour, this represents a unit cost of $15.00 per HPID or OEID application.

For the initial enumeration of 11,000 entities, this cost would have been $165,000. Thus, to deactivate an HPID or OEID, we can assume the cost avoidance would be the same.

Additionally, we estimate the potential savings (cost avoidance) for those entities that might have already updated their HPID or OEID records before the HHS deactivation and base our assumption on the actual number of updates to the HPOES system since 2013. Each year, an average of 95 records, or 1 percent of active applications, are deactivated or updated. Using the same unit cost described earlier in this rule, if 1 percent of the current organizations (110 entities) updated their HPIDs/OEIDs, the cost would be $1,650 (110 × $15). To account for any increase in wages and benefits, we multiply this by 2, and arrive at a sum of $3,300. This final rule may result in savings of $3,300. We typically provide ranges in an impact analysis, and so provide a high range of 3 percent as well. Therefore, our calculation means 330 entities would have made updates, for a total high-end savings estimate of $9,900 (330 × $15) × 2. When this final rule becomes effective, these updates will not be necessary or possible. Organizations that have obtained HPIDs or OEIDs will not be able to make changes to their accounts after the effective date of the final rule. See Table 3 for a summary of the savings for updates that will not be made to HPIDs and OEIDs on or after the effective date of the final rule.

We proposed a cost-effective method to implement the HPID and OEID rescission, and finalize that proposal in this final rule. As described earlier, HHS will deactivate the HPIDs and OEIDs on behalf of each entity and notify designated contacts in the HIOS system, while in a second wave of communication we will notify all active users in the HPOES module that the identifiers have been deactivated.

We requested industry feedback on our assumptions and estimates regarding the deactivation of the HPIDs and OEIDs. We received support from commenters for our proposal that we would conduct the deactivation at HHS. Commenters suggested we notify several individuals on record at each company in case turnover had occurred. In Section II. E. of this final rule, we describe the deactivation process and communication strategy we will employ.

3. Summary of Costs and Savings for the Proposal To Rescind the HPID

TABLE 3—SAVINGS (COST AVOIDANCE)—UPDATES THAT WOULD NOT HAVE TO BE MADE TO HPIDS AND OEIDS AFTER 2020

Savings	2020		2021	2022	2023	2024	2025	2026	2027
	1%	3%							
Updates to enumeration	$3,300	$9,900	$0	$0	$0	$0	$0	$0	$0
Total	3,300	9,900							

D. Regulatory Review Costs

Regulations impose administrative costs on private entities, such as the time needed to read and interpret a proposed rule, and we included estimates for the costs associated with the review of our documents. We assumed that commenters on the proposed rule would be representative of HIPAA covered entities and their business associates—primarily health plans, health care clearinghouses, health care providers, and vendors. However, it was not possible to quantify or estimate the number of entities, or number of individuals within each entity, who would participate in reviewing the proposed rule. Our best method of estimation was premised on the number of organizations that submitted comments on previous HIPAA standards and operating rules-related regulations as well as organizations that had participated in NCVHS hearings. HHS has received comments from approximately 100 to 150 commenters on past HIPAA regulations, while a similar number of organizations testify at or listen to NCVHS hearings. We acknowledged our assumptions may be imperfect and might result in an under- or -overstatement of the cost calculation for the review of the proposed rule, and we also recognized that the proposed rule might affect various types of covered entities in different ways, thus influencing the numbers of individuals or entities that may have read the proposed rule. For purposes of our estimate, we assumed that each reviewer would read approximately 50 percent of the proposed rule. We estimated that multiple individuals from 150 entities would read the proposed rule and that the key readers would likely be the information systems manager and legal staff. Using the wage information from the BLS for Computer and Information Systems managers for insurance carriers (Code 11–3021), we estimated that the cost of reviewing the proposed rule would be $70.07 per hour, including overhead and fringe benefits (*https://www.bls.gov/oes/current/oes113021.htm*). Assuming an average reading speed, we estimated that it would take approximately 2.5 hours for a person to review half of the proposed rule. For each reviewer, the estimated cost was projected to be $175.17 (2.5 hours × $70.7), and we estimated the total industry cost of reviewing the proposed rule to be $175 × 150 reviewers = $26,250. We received no comments on this section of the proposed rule.

E. Alternatives Considered

We were not required to provide alternatives for our proposal in the December 2018 proposed rule because we did not provide a full regulatory impact analysis. Furthermore, we fully discussed our reasons for proposing to rescind the HPID and OEID. However, we did consider several alternatives before making our proposal, including the effects of these alternatives. We provided our rationale for not selecting these options in accordance with OMB Circular A–4, which directs agencies to consider, among other things, a range of regulatory and non-regulatory alternatives, including different choices defined by statute, different compliance dates, market-oriented approaches, and different enforcement methods.

We considered allowing covered entities to apply for and use the HPID or OEID voluntarily for their own purposes, or between willing trading partners, but rejected this option because there had been no demand for the use of these identifiers. Industry clearly stated that there was no business use case for the HPID and OEID and there was no anticipated benefit or savings from their use in HIPAA transactions or for other purposes. A voluntary model employing the HPID

and OEID likely would have resulted in confusion and disagreement between trading partners, thereby also likely engendering costs.

At the May 3, 2017 NCVHS hearing, two commenters suggested that HHS consider alternative uses of the HPID, such as placing it on health insurance identification cards to assist with better understanding of patient coverage and benefits (including its use in patient medical records to help clarify a patient's healthcare benefit package). A commenter stated that the HPID could be used for enforcement or certification of compliance of health plans.

As we have noted, the statute requires us to adopt a standard unique health plan identifier. HHS remains open to industry and NCVHS discussion and recommendations for appropriate business case(s) that meet the requirements of administrative simplification and we will explore options for a more effective standard unique health plan identifier.

We did not receive any comments on these proposals, nor were any alternatives offered.

In accordance with the provisions of Executive Order 12866, this final rule was reviewed by the Office of Management and Budget.

List of Subjects in 45 CFR Part 162

Administrative practice and procedures, Electronic transactions, Health facilities, Health insurance, Hospitals, Medicaid, Medicare, Reporting, and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of Health and Human Services amends 45 CFR part 162 to read as follows:

PART 162—ADMINISTRATIVE REQUIREMENTS

■ 1. The authority citation for part 162 is revised to read as follows:

Authority: 42 U.S.C. 1320d—1320d–9 and secs. 1104 and 10109 of Pub. L. 111–148, 124 Stat. 146–154 and 915–917.

§ 162.103 [Amended]

■ 2. Section 162.103 is amended by removing the definitions of ''Controlling health plan (CHP)'' and ''Subhealth plan (SHP)''.

Subpart E—[Removed]

■ 3. Subpart E, consisting of §§ 162.502 through 162.514, is removed and reserved.

Dated: October 15, 2019.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2019–23507 Filed 10–25–19; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 51, 61, and 69

[WC Docket No. 18–155; FCC 19–94]

Updating the Intercarrier Compensation Regime To Eliminate Access Arbitrage

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission shifts financial responsibility for all interstate and intrastate terminating tandem switching and transport charges to access-stimulating local exchange carriers, and modifies its definition of access stimulation. Under the existing intercarrier compensation regime, carriers enter into agreements with entities offering high-volume calling services, route the calls through interexchange carriers at more expensive rates, and profit from the resulting access charge rates which interexchange carriers are required to pay. With this action, the Commission moves closer toward its goal of intercarrier compensation regime reform by reducing the financial incentives to engage in access stimulation.

DATES:

Effective date: November 27, 2019.

Compliance date: Compliance with the requirements in § 51.914(b) and (e) is delayed. The Commission will publish a document in the **Federal Register** announcing the compliance date.

FOR FURTHER INFORMATION CONTACT: Lynne Engledow, Wireline Competition Bureau, Pricing Policy Division at 202–418–1540 or via email at *Lynne.Engledow@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order and Modification to Section 214 Authorizations, WC Docket No. 18–155; FCC 19–94, adopted on September 26, 2019, and released on September 27, 2019. The full text copy of this document may be obtained at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-19-94A1.pdf.*

I. Background

1. In the 1980s, after the decision to break up AT&T, the Commission adopted regulations detailing how access charges were to be determined and applied by LECs when IXCs connect their networks to the LECs' networks to carry telephone calls originated by or terminating to the LECs' customers. Those regulations also established a tariff system for access charges that mandates the payment of tariffed access charges by IXCs to LECs. In passing the Telecommunications Act of 1996 (the 1996 Act), Congress sought to establish ''a pro-competitive, deregulatory national policy framework'' for the United States' telecommunications industry in which implicit subsidies for rural areas were replaced by explicit ones in the form of universal service support. In response, the Commission began the process of reforming its universal service and ICC systems.

2. In the 2011 *USF/ICC Transformation Order* (76 FR 73830, Nov. 29, 2011), the Commission took further steps to comprehensively reform the ICC regime and established a bill-and-keep methodology as the ultimate end state for all intercarrier compensation. As part of the transition to bill-and-keep, the Commission capped most ICC access charges and adopted a multi-year schedule for moving terminating end office charges and some tandem switching and transport charges to bill-and-keep.

3. In the *USF/ICC Transformation Order,* the Commission found that the transition to bill-and-keep would help reduce access stimulation, and it also attacked access arbitrage directly. The Commission explained that access stimulation was occurring in areas where LECs had high switched access rates because LECs entering traffic-inflating revenue sharing agreements were not required to reduce their access rates to reflect their increased volume of minutes. The Commission found that, because access stimulation increased access minutes-of-use and access payments (at constant per-minute-of-use rates that exceed the actual average per-minute cost of providing access), it also increased the average cost of long-distance calling. The Commission explained that ''all customers of these long-distance providers bear these costs, even though many of them do not use the access stimulator's services, and, in essence, ultimately support businesses designed to take advantage of . . . above-cost intercarrier compensation rates.'' The Commission, therefore, found that the terminating end office access rates charged by access-

stimulating LECs were ''almost uniformly'' unjust and unreasonable in violation of section 201(b) of the Communications Act of 1934, as amended (the Act).

4. To reduce financial incentives to engage in wasteful arbitrage, the Commission adopted rules that identify those LECs engaged in access stimulation and required that such LECs lower their tariffed access charges. Under our current rules, to be considered a LEC engaged in ''access stimulation,'' a LEC must have a ''revenue sharing agreement,'' which may be ''express, implied, written or oral'' that ''over the course of the agreement, would directly or indirectly result in a net payment to the other party (including affiliates) to the agreement,'' in which payment by the LEC is ''based on the billing or collection of access charges from interexchange carriers or wireless carriers.'' The LEC must also meet one of two traffic triggers. An access-stimulating LEC either has ''an interstate terminating-to-originating traffic ratio of at least 3:1 in a calendar month, or has had more than a 100 percent growth in interstate originating and/or terminating switched access minutes-of-use in a month compared to the same month in the preceding year.'' An access-stimulating rate-of-return LEC is required by our current rules to reduce its tariffed terminating switched access charges by adjusting those rates to account for its projected high traffic volumes. An access-stimulating competitive LEC must reduce its terminating switched access charges to those of the price cap carrier with the lowest switched access rates in the state.

5. The record makes clear that these rules were an important step toward reducing access stimulation and implicit subsidies in the ICC system. Before the rules were adopted, Verizon estimated that access arbitrage cost IXCs between $330 million and $440 million annually. By contrast, IXCs estimate that access arbitrage currently costs IXCs between $60 million and $80 million annually. In addition, the record shows that the current access stimulation rules have effectively discouraged rate-of-return LEC access stimulation activity. The access-stimulating LECs identified in the record are all competitive LECs. No rate-of-return LECs have been identified as engaging in an access stimulation scheme.

6. Terminating end office access rates have now been transitioned to bill-and-keep for price cap LECs and competitive LECs that benchmark their rates to price cap LECs, and by July 1, 2020, they will transition to bill-and-keep for rate-of-return LECs and the competitive LECs that benchmark to them. Price cap incumbent LEC terminating tandem switching and transport charges likewise have transitioned to bill-and-keep when such a LEC is the tandem provider and it, or an affiliated incumbent LEC, is the terminating end office LEC. As a result, terminating end office charges are no longer driving access stimulation.

7. At issue in this proceeding are arbitrage schemes that take advantage of those access charges that remain in place for those types of terminating tandem switching and transport services which, unlike end office switching charges, have not yet transitioned or are not transitioning to bill-and-keep. Access stimulators typically operate in those areas of the country where tandem switching and transport charges remain high and are causing intermediate access providers, including centralized equal access (CEA) providers, to be included in the call path.

8. CEA providers are a specialized type of intermediate access provider that were formed about 30 years ago to implement long-distance equal access obligations (*i.e.,* permitting end users to use 1+ dialing to reach the IXC of their choice) and to aggregate traffic for connection between rural incumbent LECs and other networks, particularly those of IXCs. Three CEA providers are currently in operation—Iowa Network Services, Inc. d/b/a Aureon Network Services (Aureon), South Dakota Network, LLC (SDN), and Minnesota Independent Equal Access Corporation (MIEAC). When the Commission authorized Aureon's creation as a CEA, it adopted a mandatory use requirement that requires IXCs that deliver traffic to the LECs subtending the Aureon tandem to deliver the traffic to the CEA tandem, rather than indirectly through another intermediate access provider or directly to the subtending LEC. The SDN authorization also includes a similar mandatory use requirement. MIEAC's authorization does not provide for mandatory use.

9. In 2018, to address current access stimulation schemes, the Commission adopted the *Access Arbitrage Notice* (83 FR 30628, June 29, 2018) and proposed to reduce access arbitrage by making the party that chooses the call path responsible for the cost of delivering the call to the access-stimulating LEC. The proposed rules offered a two-prong solution. Under the first prong, an access-stimulating LEC could choose to be financially responsible for calls delivered to its network so it, rather than IXCs, would pay for the delivery of calls to the LEC's end office, or the functional equivalent. Under the second prong, an access-stimulating LEC could choose to accept direct connections either from the IXC or from an intermediate access provider of the IXC's choice, allowing the IXC to bypass intermediate access providers selected by the access-stimulating LEC. The Commission reasoned that, if the access-stimulating LEC were made responsible for paying the costs of delivering calls to its end office, or if the LEC had to accept a more economically rational direct connection to its end office for high volumes of calls, it would be incentivized to move traffic more efficiently. In the *Access Arbitrage Notice,* the Commission also sought comment on possible revisions to the definition of access stimulation as well as on additional alleged ICC arbitrage schemes and ways to reduce them.

II. Eliminating Financial Incentives To Engage in Access Stimulation

10. In this document, we adopt rules aimed at eliminating the financial incentives to engage in access arbitrage created by our current ICC system. Under our existing rules, IXCs must pay tandem switching and transport charges to access-stimulating LECs and to intermediate access providers chosen by the access-stimulating LEC to carry the traffic to the LEC's end office or functional equivalent. This creates an incentive for intermediate access providers and access-stimulating LECs to increase tandem switching and transport charges. The result, as AT&T explains, is that ''*billions* of minutes of long distance traffic are routed through a handful of rural areas, not for any legitimate engineering or business reasons, but solely to allow the collection and dispersal of inflated intercarrier compensation revenues to access-stimulating LECs and their partners, as well as intermediate providers.''

11. Commenters offer evidence that there are at least 21 competitive LECs currently involved in access stimulation. Although there are access-stimulating LECs operating in at least 11 different states, there is wide agreement that the vast majority of access-stimulation traffic is currently bound for LECs that subtend Aureon or SDN. To put the number of access stimulation minutes in perspective, AT&T observes that ''twice as many minutes were being routed per month to Redfield, South Dakota (with its population of approximately 2,300 people and its 1 end office) as is routed to *all* of Verizon's facilities in New York City (with its population of approximately 8,500,000 people and its 90 end

offices).'' Sprint explains, that while Iowa contains less than 1% of the U.S. population, it accounts for 11% of Sprint's long-distance minutes-of-use and 48% of Sprint's total switched access payments across the United States. Similarly, South Dakota contains 0.27% of the U.S. population, but accounts for 8% of Sprint's total switched access payments across the United States.

12. The record shows that CEA providers' tariffed charges for tandem switching and tandem switched transport serve as a price umbrella for services offered on the basis of a commercial agreement by other providers, meaning the commercially negotiated rates need only be slightly under the ''umbrella'' CEA provider rate to be attractive to those purchasing the service(s). As AT&T explains:

Some access stimulation LECs (either directly or via least cost routers) offer commercial arrangements for transport. The rates in these agreements, however, are well above the economic cost of providing transport. Because the only other available alternative is the tariffed transport rate of the intermediate provider selected by the LEC (such as a centralized equal access provider), that tariffed rate acts as a ''price umbrella,'' which permits the access stimulation LEC to overcharge for transport service. The access stimulation LEC or least cost router can attract business merely by offering a slight discount from the applicable tariffed rate for tandem switching and transport. Because the Commission's rules disrupt accurate price signals, tandem switching and transport providers for access stimulation have no economic incentives to meaningfully compete on price.

A. Access-Stimulating LECs Must Bear Financial Responsibility for the Rates Charged To Terminate Traffic to Their End Office or Functional Equivalent

13. To reduce further the financial incentive to engage in access stimulation, we adopt rules requiring an access-stimulating LEC to designate in the Local Exchange Routing Guide (LERG) or by contract the route through which an IXC can reach the LEC's end office or functional equivalent and to bear financial responsibility for all interstate and intrastate tandem switching and transport charges for terminating traffic to its own end office(s) or functional equivalent whether terminated directly or indirectly. These rules effectuate a slightly modified version of the first prong of the access-stimulation rule proposed by the Commission in the *Access Arbitrage Notice* and properly align financial incentives by making the access-stimulating LEC responsible for paying for the part of the call path that it dictates.

14. After reviewing the record, we decline to adopt the second prong of the Commission's proposal that would allow an access-stimulating LEC to avoid paying for tandem switching and tandem switched transport by permitting an IXC to directly or indirectly connect to the LEC and pay for that connection, rather than having the LEC pay the cost of receiving traffic. We are persuaded by the substantial number of commenters that argue that adoption of the first prong of the proposal will better address the problem of access stimulation and that allowing LECs the alternative of permitting direct or indirect connections paid for by the IXC would create a substantial risk of stranded investment.

15. We also modify our definition of access stimulation to capture the possibility of access stimulation occurring even without a revenue sharing agreement between a LEC and a high-volume calling service provider.

1. New Requirements for Access-Stimulating LECs

16. The approach we adopt in this document—shifting financial responsibility for all tandem switching and transport services to access-stimulating LECs for the delivery of terminating traffic from the point where the access-stimulating LEC directs an IXC to hand off the LEC's traffic—has broad support in the record. This shift in financial responsibility from IXCs to access-stimulating LECs for intermediate access provider charges and access-stimulating LECs' tandem switching and tandem switched transport charges is aimed at addressing the changes that have occurred in access arbitrage since the adoption of the *USF/ICC Transformation Order.* The record shows that billions of minutes of access arbitrage every year are being directed to access-stimulating LECs using expensive tandem switching providers for conference calling and other services offered for ''free'' to the callers, but at an annual cost of $60 million to $80 million in access charges to IXCs and their customers. Although only a small proportion of consumers call access-stimulating LECs, the costs are spread across an IXC's customers. As a result, long-distance customers are forced to bear the costs of ''free'' conferencing and other services that only some customers use. In attacking this form of cross-subsidization, we follow the lead set by the Commission in the *USF/ICC Transformation Order.*

17. Our new rules eliminate the incentives that access-stimulating LECs have to switch and route stimulated traffic inefficiently, including by using intermediate access providers to do the same. Because IXCs currently pay the LECs' tandem switching and tandem switched transport charges and the intermediate access provider's access charges, the terminating LEC has an incentive to inflate its own charges, and is, at a minimum, insulated from the cost implications of its decision to use a given intermediate access provider. Indeed, in some cases the terminating LEC may not be merely indifferent to what interconnection option is most efficient but may have incentives to select less efficient alternatives if doing so would lead it to benefit, whether directly or on a corporation-wide basis.

18. As AT&T observes, making access-stimulating LECs financially responsible for traffic terminating to their end offices will be effective because it will ''reduce the ability of terminating LECs and access stimulators to force IXCs, wireless carriers, and their customers [to subsidize], via revenues derived from inefficient transport routes, the costs of access stimulation schemes.'' In addition, the costs of access stimulation are not limited to the access charges paid by IXCs and their customers. Costs also are incurred by IXCs in trying to avoid payments to access stimulation schemes whether through litigation or seeking regulatory intervention.

19. Commenters argue that placing the financial responsibility on the access-stimulating LEC for delivery of traffic to its end office, or functional equivalent, will reduce inefficiencies created by access-stimulating LECs that subtend intermediate access providers and choose to work with high-volume calling service providers that locate equipment in remote rural areas without a reason independent of arbitraging the current ICC system. We agree with these commenters. As CenturyLink explains, this change will ''properly recognize[] that the responsibility to pay for the traffic delivery should be assigned to the entity that stimulated the traffic in the first place.''

20. We find unpersuasive arguments that as a result of the *USF/ICC Transformation Order* and the Aureon tariff investigation proceeding (addressing rate setting by CEA providers), there are few to no problems arising from arbitrage that need to be solved today. The record shows that access stimulation schemes are operating in at least 11 states and are costing IXCs between $60 million and

$80 million per year in access charges. The record also shows that access stimulation is particularly concentrated where CEA providers Aureon and SDN received authority from the Commission to construct their CEA networks. In granting that authority, the Commission included a mandatory use requirement that requires IXCs to route telecommunications traffic through the CEA tandems to terminate traffic to the participating LECs that subtend those tandems. The CEA providers' tariffed rates to terminate traffic ''are premised on typical volumes to high-cost rural exchanges.'' We find that these high CEA rates create a price umbrella: A price that other intermediate access providers can ''slightly undercut'' but still make a profit. As a result, ''AT&T and other carriers routinely discover that carriers located in remote areas with long transport distances and high transport rates enter into arrangements with high volume service providers . . . for the sole purpose of extracting inflated ICC rates due to the distance and volume of traffic.'' The record shows that access stimulation also occurs in states not served by CEA providers but to a lesser extent.

21. Nor do we find persuasive arguments that access stimulation is beneficial. The Joint CLECs, for example, allege that more than 5 million people ''enjoy the benefits'' of high-volume services hosted by them on a monthly basis. For its part, HD Tandem claims that ''75 million unique users this year . . . have called voice application services at the rural LECs that HD Tandem terminates to.'' The Joint CLECs argue that ''nonprofit organizations, small businesses, religious institutions, government agencies, and everyday Americans . . . will undoubtedly suffer if these [access stimulation] services are put out of business.'' Other parties, including several thousand individual users of ''free'' conferencing and other high-volume calling services, have filed comments expressing concern that such ''free-to-the-user'' services will be eliminated by this action and urging us to retain the current regulatory system in light of the purported benefits such ''free'' services provide. As commenters explain, these arguments are both self-serving and inconsistent with our goals in reforming the ICC system. The benefits of ''free'' services enjoyed by an estimated 75 million users of high-volume calling services are paid for by the more than 455 million subscribers of voice services across the United States, most of whom do not use high-volume calling services. According to Sprint, for example, less than 0.2% of its subscribers place calls to access stimulation numbers, but 56% of Sprint's access charge payments are paid to access-stimulating LECs—leaving IXC customers paying for services that the vast majority will never use. We find that while ''free'' services are of value to some users, these services are available at no charge because of the implicit subsidies paid by IXCs, and their costs are ultimately born by IXC customers whether those customers benefit from the ''free'' services or not.

22. Access-stimulating LECs also argue that the Commission should find beneficial their use of access-stimulation revenue to subsidize rural broadband network deployment. These implicit subsidies are precisely what the Commission sought to eliminate in the *USF/ICC Transformation Order,* as directed by Congress in the 1996 Act. Indeed, the Commission addressed similar arguments in the *USF/ICC Transformation Order,* where it found that although ''expanding broadband services in rural and Tribal lands is important, we agree with other commenters that how access revenues are used is not relevant in determining whether switched access rates are just and reasonable in accordance with section 201(b).'' As Sprint explains, ''this sort of implicit cross-subsidy is contrary to the principle that access rates should reasonably reflect the cost of providing access service, and that subsidies, including universal service support, be explicit and 'specific.'''' Competition also suffers because access-stimulation revenues subsidize the costs of high-volume calling services, granting providers of those services a competitive advantage over companies that collect such costs directly from their customers.

23. Eliminating the implicit subsidies that allow these ''free'' services will lead to more efficient provision of the underlying services and eliminate the waste generated by access stimulation. After the implicit subsidies are eliminated, customers who were using the ''free'' services, and who value these services by more than the cost of providing them, will continue to purchase these services at a competitive price. Thus, the value of the services purchased by these customers will exceed the cost of the resources used to produce them, which implies both that customers benefit from purchasing these services and that network resources are used efficiently. Further, users who do not value these services by as much as the cost of providing them, including those who undertook fraudulent usages designed only to generate access charges, will no longer purchase them in the competitive market. Thus, valuable network resources that were used to provide services that had little or no value will no longer be assigned to such low-value use, increasing efficient utilization of network resources.

24. We find misplaced or, in other cases, simply erroneous, the arguments offered by the Joint CLECs in an expert report by Daniel Ingberman that argues economic efficiency is enhanced when access-stimulated traffic is brought to a network with otherwise little traffic volume because this allows the small network to obtain scale economies. The result, Ingberman claims, would be substantially lower prices for local end users, producing relatively large increases in consumer surplus. In contrast, if the traffic were placed on a network that already carries substantial traffic volumes, the scale effects are minimal, and so the benefits to end users of lower prices are also minimal. Thus, according to Ingberman, siting new traffic on smaller (rural) networks, as access stimulators do, must raise economic well-being.

25. We reject Ingberman's claim that lower consumer prices from siting new traffic on a smaller network are likely to be significant, if they arise at all. The Commission's high cost universal service program provides support to carriers in rural, insular, and high cost areas as necessary to ensure that consumers in such areas pay rates that are reasonably comparable to rates in urban areas. Thus, smaller rural carrier rates for end users will always be comparable to larger carrier rates whether the smaller carrier is a rural incumbent LEC that receives universal service support or is a competitive LEC that does not receive such support but competes on price against a rural incumbent LEC that does. Given reasonably comparable rates, siting new traffic on a smaller network is not likely to significantly lower, and may make no difference to, rates charged to end users of the smaller network.

26. Ingberman also fails to establish the validity of his claim that increased access traffic on a LEC network would result in lower prices to its end-user customers. In particular, he has not established that as a practical matter, increasing access traffic on a LEC's network lowers the LEC's cost of serving its end-user customers. Without lowering such costs, a LEC would have no incentive to lower prices to its end-user customers. The access-stimulating LEC would simply continue to charge its profit-maximizing price to its retail

customers, while pocketing the windfall from access arbitrage.

27. We find several other fundamental problems with the Ingberman Report. Although Ingberman acknowledges that IXCs pay terminating switched access charges (which are often paid both to intermediate access providers and access-stimulating LECs), his model assumes bill-and-keep pricing. That is, Ingberman assumes away the central issue this proceeding must deal with: The use of intercarrier compensation charges to fund access stimulators' operations. Consequently, his analysis does not take into account the cost that access stimulators impose on larger networks and their subscribers. It also fails to model access-stimulating services, beyond assuming they bring traffic to the smaller network. But these services are delivered in highly inefficient ways, relying on unusually expensive calling paths. These services also are sold in highly inefficient ways, almost always below the efficient cost of delivery of such services. Nor does Ingberman's model account for the time and effort taken to generate traffic, often fraudulent, for access stimulation, and to develop the complex schemes and contracting relationships that generate access-stimulating LEC profits. Moreover, there is no recognition of the cost of IXCs engaging in otherwise unnecessary, and hence, wasteful, efforts to identify fraudulent traffic or to find ways to avoid the abuses of our tariffing regime perpetrated by access stimulators. Similarly, the model provides no means for estimating the efficiency costs of allowing terminating switched access charges that not only exceed marginal cost, but also total costs. These are all significant costs for which any model should account.

28. Further, we find misplaced arguments by some commenters that there is no evidence that IXCs' customers will benefit from reduced access arbitrage. Reducing the costs created by access arbitrage by reducing the incentives that lead carriers to engage in such arbitrage is a sufficient justification for adopting our rules, regardless of how IXCs elect to use their cost savings. The Commission has recognized for many years that long-distance service is competitive, and we generally expect some passthrough of any decline in costs, marginal or otherwise. To the extent passthrough does not occur, IXC shareholders are presently subsidizing users of access-stimulating services, which distorts economic efficiency in the supply of those services. Even if we cannot precisely quantify the effects of past reforms (given the many simultaneously occurring technological and marketplace developments), as a matter of economic theory, we expect some savings to flow through to IXCs' customers or the savings to be available for other, beneficial purposes. For example, IXCs will no longer have to expend resources in trying to defend against access-stimulation schemes, and consumers will be provided with more-accurate pricing signals for high-volume calling services. More fundamentally, these commenters fail to explain how a policy that enables a below-cost (sometimes zero) price for services supplied by high-volume calling service providers and general telephone rates that subsidize these high-volume calling services could be expected to produce efficient production and consumption outcomes.

29. We also find no merit to arguments that IXCs will be able to seize new arbitrage opportunities as a result of the rules we adopt in this document. Aureon, for example, argues that IXCs will be ''incentivized to increase arbitrage traffic volume,'' without explaining how IXCs would accomplish such a task. The Joint CLECs argue that if the new rules decrease the use of ''free'' conference calling services, IXCs will realize greater use of their own conference calling products and greater revenue while also benefiting from reduced access charges. If our amended rules force ''free'' service providers to compete on the merits of their services, rather than survive on implicit subsidies, that outcome is to be welcomed because it would represent competition driving out inefficient suppliers in favor of efficient ones. Nothing we do in this document shifts arbitrage opportunities to the IXCs or to any provider; we are attacking implicit subsidies that allow high-volume calling services to be offered for free, sending incorrect pricing signals and distorting competition. In addition, as AT&T explains, IXCs have engaged in a decade-long campaign to end the practice of access arbitrage because they and their customers are the targets of such schemes.

30. AT&T expresses concern that IXCs will be obligated to deliver access-stimulated traffic to remote tandem locations and to pay the related excessive transport fees for connecting to that remote tandem if access-stimulating LECs decide to build new end office switches in remote areas, and their affiliates decide to deploy new tandem switches in similarly remote locations. AT&T therefore suggests that we limit the IXCs' delivery obligations to only those tandem switches in existence as of January 1, 2019. AT&T does not point to any existing legal requirements that an IXC must agree to a new point of interconnection designated by an access-stimulating LEC should the access-stimulating LEC unilaterally attempt to move the point of interconnection. As such, we decline to address AT&T's hypothetical concern at this time.

31. Various commenters have described a practice wherein calls routed to an access-stimulating LEC are blocked or otherwise rejected by the high-volume calling service provider served by the access-stimulating LEC and/or the terminating LEC, but then successfully completed when rerouted. We make clear that in the case of traffic destined for an access-stimulating LEC, when the access-stimulating LEC is designating the route to reach its end office and paying for the tandem switching and transport, the IXC or intermediate access provider may consider its call completion duties satisfied once it has delivered the call to the tandem designated by the access-stimulating LEC, either in the LERG or in a contract.

32. We also reject several suggestions that we should not move forward with this rulemaking. For example, commenters suggest that we issue a further notice of proposed rulemaking to seek additional comment on the issues raised in the proceeding, decline to adopt changes to address access arbitrage, refocus the proceeding to ensure that tandem switching and tandem switched transport access charges remain available to subsidize their access stimulation-fueled operations, or ''revisit'' the rule's trigger and explore a different, mileage-based mechanism. The Joint CLECs, a set of access-stimulating LECs, go as far as arguing that we should close this docket without taking action. For its part, T-Mobile suggests that we address ongoing arbitrage and fraud by enforcing current rules without further rulemaking. We disagree with these suggestions; the record shows that access arbitrage schemes have adapted to the reforms adopted in 2011. We will not postpone adoption of amendments to our rules that address the way today's access arbitrage schemes use implicit subsidies in our ICC system to warp the economic incentives to provide service in the most efficient manner.

33. We also decline to adopt Wide Voice's alternative suggestions that we either cap transport miles charged by access-stimulating LECs to 15 miles or hold access-stimulating LECs responsible only for transport mileage charges, not switching charges. In support of these positions, Wide Voice

alleges, without offering any support, that transport charges are the primary driver of access stimulation. Nor does Wide Voice explain how a mileage cap would reduce access arbitrage. By contrast, the record demonstrates that reversing the financial responsibility for both transport and tandem switching charges will help eliminate access arbitrage. Either of these proposals would, however, benefit Wide Voice which does not charge for transport.

34. We also decline to adopt Aureon's suggestion that would allow IXCs to charge their subscribers an extra penny per minute for calls to access stimulators. There is no evidence that access-stimulating calls currently cost a penny per minute, so the proposal would simply trade one form of inefficiency for another. We are also concerned that adopting such an overbroad proposal to address the stimulation of tandem switching and transport charges would confuse consumers and unnecessarily spill into, and potentially negatively affect, the operation of the more-competitive wireless marketplace and the choices consumers have made when selecting wireless calling plans.

35. At the same time, we remain unwilling to adopt an outright ban on access stimulation. As the Commission concluded in the *USF/ICC Transformation Order,* prohibiting access stimulation in its entirety or finding that revenue sharing is a *per se* violation of section 201 of the Act would be an overbroad solution ''and no party has suggested a way to overcome this shortcoming.'' Instead, the Commission chose to prescribe narrowly focused conditions for providers engaged in access stimulation. We adhere to that view in this document because there is still no suggestion as to how a blanket prohibition could be tailored to avoid it being overbroad. We believe the rules we adopt in this document strike an appropriate balance between addressing access stimulation and the use of intermediate access providers while not affecting those LECs that are not engaged in access stimulation. The rules adopted in this document are not overbroad. They are consistent with the policies adopted in the *USF/ICC Transformation Order* and are the product of notice and record support.

36. Having concluded that a modified version of the first prong of the Commission's proposal in the *Access Arbitrage Notice* will adequately address current access arbitrage practices, we decline to adopt the second prong of the proposal. Prong 2 of that proposal would have provided access-stimulating LECs an opportunity to avoid financial responsibility for the delivery of traffic from an intermediate access provider to the access-stimulating LEC's end office or functional equivalent by offering to accept direct connections from IXCs or an intermediate access provider of the IXC's choice. The record offers no support for the adoption of Prong 2 as drafted, and we agree with various concerns raised in the record that access-stimulating LECs could nullify any benefits of this approach. For example, Prong 2 could allow access-stimulating LECs to avoid financial responsibility by operating in remote locations where direct connections would be prohibitively expensive or infeasible and alternative intermediate access providers may be nonexistent or prohibitively expensive. Under such circumstances, Prong 2 would be ineffective at curbing the practice while increasing disputes over the terms of direct connections before the courts and the Commission.

37. Likewise, even where establishing a direct connection may initially appear cost-effective, the ease with which access stimulation traffic may be shifted from one carrier to another undermines the value of making the investment. After a direct connection premised on high traffic volume has been established at an access-stimulating LEC's original end office, the access-stimulating LEC or providers of access-stimulating services could move traffic to a different and more distant end office, thus stranding the financial investment to build that direct connection with minuscule traffic volume after the access stimulation activity has shifted locations. We conclude that requiring a shift in financial responsibility for the delivery of traffic from the IXC to the access-stimulating LEC end office or its functional equivalent is sufficient, at this time, to address the inefficiencies caused by access stimulation relating to intermediate access providers. The attractiveness of these schemes will necessarily wane once the responsibility of paying for any intermediate access provider's charges is shifted to access-stimulating LECs. As a general matter, we acknowledge that companies can currently, and will continue to be able to, negotiate individual direct connection agreements and leave the possibility of a policy pronouncement regarding direct connections for consideration as part of our broader intercarrier compensation reform efforts.

38. In the *Access Arbitrage Notice,* the Commission sought comment on moving to a bill-and-keep regime all terminating tandem switching and tandem switched transport rate elements for access-stimulating LECs or the intermediate access providers they choose. Contrary to the claims of some commenters, the rules we adopt in this document are consistent with our goal of moving toward bill-and-keep. They prohibit access-stimulating LECs from recovering their tandem switching and transport costs from IXCs, leaving access-stimulating LECs to recover their costs from high-volume calling service providers that use the LECs' facilities. Likewise, the rules we adopt treat access-stimulating LECs as the customers of the intermediate access providers they select to terminate their traffic and allow those intermediate access providers to recover their costs from access-stimulating LECs. Thus, we allow intermediate access providers to continue to apply their tandem switching and transport rates to traffic bound for access-stimulating LECs, but those rates must be charged to the access-stimulating LEC, not the IXC that delivers the traffic to the intermediate access provider for termination.

2. Redefining ''Access Stimulation''

39. In recognition of the evolving nature of access-stimulation schemes, we amend the definition of ''access stimulation'' in our rules to include situations in which the access-stimulating LEC does not have a revenue sharing agreement with a third party. In so doing, we leave the current test for access stimulation in place. That test requires, first, that the involved LEC has a revenue sharing agreement and, second, that it meets one of two traffic triggers. The LEC must either have an interstate terminating-to-originating traffic ratio of at least 3:1 in a calendar month or have had more than a 100% growth in interstate originating and/or terminating switched access minutes-of-use in a month compared to the same month in the preceding year. We add two, alternate tests that require no revenue sharing agreement. First, under our newly amended rules, competitive LECs with an interstate terminating-to-originating traffic ratio of at least 6:1 in a calendar month will be defined as engaging in access stimulation. Second, under our newly amended rules, we define a rate-of-return LEC as engaging in access stimulation if it has an interstate terminating-to-originating traffic ratio of at least 10:1 in a three calendar month period and has 500,000 minutes or more of interstate terminating minutes-of-use per month in an end office in the same three calendar month period. These factors will be measured as an average over the same three calendar-month period. Our

decision to adopt different triggers for competitive LECs as compared to rate-of-return LECs reflects the evidence in the record that there are structural barriers to rate-of-return LECs engaging in access stimulation, and at the same time, a small but significant set of rate-of-return LECs can experience legitimate call patterns that would trip the 6:1 trigger.

40. We adopt these alternate tests for access stimulation because, as one commenter explains, as terminating end office access charges move toward bill-and-keep, ''many entities engaged in access stimulation have re-arranged their business to circumvent the existing rules by reducing reliance on direct forms of revenue sharing.'' Or, as another commenter explains, the revenue sharing trigger is creating incentives for providers to ''become more creative in how they bundle their services to win business and evade'' the rules. We also are concerned about a prediction in the record that if we were to adopt the rules originally proposed in the *Access Arbitrage Notice,* without more, access-stimulating LECs will cease revenue sharing in an effort to avoid triggering the proposed rules, even while continuing conduct that is equivalently problematic.

41. A number of commenters describe ways that carriers and their high-volume calling service partners may be profiting from arbitrage where their actions may not appear to fit the precise provisions of our revenue sharing requirement. For example, T-Mobile reports that some LECs create ''shell companies to serve as their intermediate provider, and then force carriers to send traffic to that intermediate provider, who charges a fee shared with the ILEC.'' Aureon posits that tandem provider HD Tandem could receive payment from a LEC or an IXC to provide intermediate access service and then share its revenues directly with its high-volume calling service affiliate without sharing any revenue with the terminating LEC. Also, an access-stimulating LEC that is co-owned with a high-volume calling service provider could retain the stimulated access revenues for itself, while letting the high-volume calling service provider operate at a loss. In those situations, the LEC would not directly share any revenues. Likewise, Inteliquent suggests that there would be no revenue sharing if the same corporate entity that owns a high-volume calling service provider also owns an end office, or if switch management is outsourced to a high-volume calling platform or its affiliate. In those cases, the revenue would remain under the same corporate entity and not come from separate entities sharing ''billing or collection of access charges from interexchange carriers or wireless carriers.'' Because of these concerns, we find it reasonable and practical to adopt additional triggers in our rules that define access stimulation to exist when a LEC has a highly disproportionate terminating-to-originating traffic ratio. We, therefore, keep the revenue sharing requirement of § 61.3(bbb)(1)(i) as is, and adopt two alternative prongs of the definition of access stimulation that do not require revenue sharing.

42. Some commenters have ''no objection if the revenue sharing aspect of the definition is eliminated'' and if the Commission were to rely solely on traffic measurement data. However, the record shows that the current definition has accurately identified LECs engaged in access stimulation. We therefore find that the better course is to leave the current test in place and add two alternate tests for access stimulation that do not include revenue sharing, and have higher traffic ratios.

43. *A Higher Traffic Ratio Is Justified When No Revenue Sharing Agreement Is in Place.* In adopting two alternative tests for access stimulation that do not include a revenue sharing component, we are mindful of the importance of identifying those LECs engaging in access stimulation while not creating a definition that is overbroad, resulting in costly disputes between carriers and confusion in the market. First, in an effort to be conservative and not overbroad, we adopt an alternative test of the access-stimulation definition for competitive LECs, which requires a higher terminating-to-originating traffic ratio than the 3:1 ratio currently in place. We find that a 6:1 or higher terminating-to-originating traffic ratio for competitive LECs provides a clear indication that access stimulation is occurring, even absent a revenue sharing agreement. We could establish a smaller ratio; however, we agree with Teliax that tightening the ratio ''would most certainly catch normal increases in traffic volumes,'' and thus be overinclusive. We also want to protect non-access-stimulating LECs from being misidentified. We have selected a 6:1 ratio, which is twice the existing ratio and is the ratio recommended by Inteliquent. The 6:1 ratio should help to capture any access-stimulating competitive LECs that decide to cease revenue sharing, as well as any access-stimulating competitive LECs that already may have ceased revenue sharing, or that currently are not doing so.

44. This larger ratio is sufficient to prevent the definition from ensnaring competitive LECs that have traffic growth solely due to the development of their communities. We do not find compelling Wide Voice's suggestion that an access-stimulating LEC that exceeds the 6:1 ratio would have an incentive to try to game the system by obtaining more originating traffic, such as 8YY traffic, to stay below the 6:1 ratio or move traffic to other LECs to avoid tripping the trigger. All LECs, not just access-stimulating LECs, should have an incentive to obtain more traffic, whether it's originating 8YY traffic or terminating traffic. However, there is no evidence that access-stimulating LECs are currently able to avoid the 3:1 trigger by simply carrying more originating traffic or moving traffic, and Wide Voice offers no evidence that doing so will be a simple matter for LECs seeking to avoid the 6:1 ratio that we are adding to capture LECs engaging in this scheme without a revenue sharing agreement. We do not include a threshold for number of minutes of interstate traffic carried by a competitive LEC to meet the test for an access-stimulating competitive LEC because there is no justification in the record for a specific number.

45. We adopt a separate alternative test for determining whether a rate-of-return LEC is engaged in access stimulation in part to address NTCA and other commenters' concerns that ''eliminating the revenue sharing component of the definition of access stimulation . . . could immediately have the inadvertent effect of treating innocent RLECs as access stimulators when they do not engage in that practice at all.'' In adopting a second alternate access-stimulation definition applicable only to rate-of-return LECs we recognize that the majority of those carriers are small, rural carriers with different characteristics than competitive LECs. For example, unlike access-stimulating LECs that only serve high-volume calling providers, rate-of-return carriers, which serve small communities and have done so for years, would not be able to freely move stimulated traffic to different end offices. In addition, as NTCA explains, such carriers also may have traffic ratios that are disproportionately weighted toward terminating traffic because their customers have shifted their originating calls to wireless or VoIP technologies. This trend is reflected in the Commission's *Voice Telephone Services Report–June 2017.* We also agree with NTCA that small rate-of-return LECs' traffic may be more sensitive to seasonal changes in the ratio of their terminating-to-originating access minutes because of

the unique geographical areas they serve and thus may have spikes in call volume with a greater impact on traffic ratios than would be experienced by carriers with a larger base of traffic spread over a larger, more populated, geographical area.

46. The second alternate definition we adopt strikes an appropriate balance. It recognizes the potential that small, non-access-stimulating, rate-of-return carriers may have larger terminating-to-originating traffic ratios than competitive LECs and ''avoid[s] penalizing innocent LECs that may have increased call volumes due to new economic growth,'' for example. NTCA shows that application of a 6:1 ratio to rate-of-return LECs would identify as access-stimulating LECs approximately 4% of rate-of-return LECs that participate in the National Exchange Carrier Association (NECA) pool even though they are not actually engaged in access stimulation. NTCA and AT&T therefore recommend that, for rate-of-return carriers, we adopt a second test for access stimulation that is based on a 10:1 traffic ratio combined with traffic volume that exceeds 500,000 terminating interstate minutes per end office per month averaged over three months. We agree with NTCA and AT&T that their proposed 10:1 trigger is reasonable given that a small but significant number of rate-of-return LECs that are apparently not engaged in access arbitrage would trip the 6:1 trigger; the structural disincentives for rate-of-return LECs to engage in access stimulation; and the lack of evidence that rate-of-return LECs are currently engaged in access stimulation. We also think that a threshold of 500,000 terminating interstate minutes per month is a reasonable trigger for rate-of-return LECs. By its very nature, access stimulation involves termination of a large number of minutes per month, as such, excluding the smallest rate-of-return carriers from the definition is a sensible approach. Thus, for rate-of-return LECs, we adopt a 10:1 ratio as demonstrating access stimulation activity when combined with more than 500,000 interstate terminating minutes-of-use per month, per end office, averaged over three calendar months.

47. We also agree with NTCA that ''any access stimulation trigger be based on *actual* minutes of use as measured by the LEC traversing the switch, rather than by reference to billing records.'' This is how the ratio is currently calculated and it should remain the case that when calculating the current 3:1 terminating-to-originating traffic trigger, or the 6:1 or 10:1 triggers adopted in this *Order,* carriers must look to the actual minutes traversing the LEC switch. This combination of a traffic ratio and a minutes-of-use threshold for rate-of-return carriers is consistent with the Commission's approach in the *USF/ICC Transformation Order* to ensure that the definition is not over-inclusive but is enforceable. In addition, we find that measuring this ratio and the average monthly minutes-of-use threshold over three months will adequately account for the potential seasonal spikes in calling volumes identified by NTCA.

48. Although no party has raised concerns about how the existing 3:1 traffic ratio is calculated, we received specific questions about calculating the 6:1 ratio. We clarify that all traffic should be counted regardless of how it is routed. Contrary to Wide Voice's assertions, originating traffic using tariffed access services counts as does originating traffic using a ''least cost router under negotiated billing arrangements outside of the access regime.'' All originating and terminating interstate traffic should be counted in determining the interstate terminating-to-originating traffic ratio. This also means that all terminating traffic from all sources, not just one IXC, should be counted in determining a traffic ratio.

49. We recognize the possibility that a LEC may experience significant traffic growth and if, for example, such customers include one or more inbound call centers, the result could be that its traffic exceeds one of the new traffic ratio triggers we adopt. We are not aware of any similar problems occurring with the existing 3:1 ratio and the record contains no evidence of that happening. Nonetheless, consistent with the Commission's decision in the *USF/ICC Transformation Order,* should a non-access-stimulating LEC experience a change in its traffic mix such that it exceeds one of the ratios we use to define access-stimulating LECs, that LEC will have ''an opportunity to show that they are in compliance with the Commission's rules.'' In addition, as Sprint correctly points out if a LEC, not engaged in arbitrage, finds that its traffic will exceed a prescribed terminating-to-originating traffic ratio, the LEC may request a waiver. We find these alternatives will protect non-access-stimulating LECs from false identification as being engaged in access stimulation.

50. *Identifying When a LEC Is No Longer Engaged in Access Stimulation.* Because we are adding two alternate bases for identifying access stimulation, we also must modify the rule that defines when a LEC is no longer engaged in access stimulation. The existing rule provides that a LEC is no longer engaged in access stimulation when it ceases revenue sharing. We amend our rules to provide that a competitive LEC that has met the first set of triggers for access stimulation will continue to be considered to be engaging in access stimulation until it terminates all revenue sharing arrangements and does not meet the 6:1 terminating-to-originating traffic ratio; and a competitive LEC that has met the 6:1 ratio will continue to be considered to be engaging in access stimulation until it falls below that ratio for six consecutive months, and it does not qualify as an access-stimulating LEC under the first set of triggers.

51. We amend our rules to provide that a rate-of-return LEC that has met the first set of triggers for access stimulation will continue to be considered to be engaging in access stimulation until it: (1) Terminates all revenue sharing arrangements; (2) does not meet the 10:1 terminating-to-originating traffic ratio; and (3) has less than 500,000 minutes of average monthly interstate terminating traffic in an end office (measured over the three-month period). A rate-of-return LEC that has met the 10:1 ratio and 500,000 minutes-per-month threshold will continue to be considered to be engaging in access stimulation until its traffic balance falls below that ratio and that monthly traffic volume for six consecutive months, and it does not qualify as an access-stimulating LEC under the first set of triggers. We find that a six-month time frame will accurately signal a change in either a competitive LEC's or a rate-of-return LEC's business practices rather than identify a short-term variation in traffic volumes that may not repeat in the following months.

52. We also make a minor modification to § 61.3(bbb)(4) which states that LECs engaged in access stimulation are subject to revised interstate switched access rates. When the rule was adopted in the *USF/ICC Transformation Order,* the Commission stated that revised interstate switched access rates applied to both rate-of-return LECs and competitive LECs. However, the rule adopted in that Order, § 61.3(bbb)(2), refers to the rate regulations applicable only to rate-of-return carriers. In the *Access Arbitrage Notice,* we asked for comments on the rules, and received no comments on this issue. We therefore modify (now relabeled) § 61.3(bbb)(4) to refer to the rate regulations for competitive LECs as well as rate-of-return LECs. The revised § 61.3(bbb)(4) therefore specifies that a LEC engaging in access stimulation is subject to revised interstate switched

access charge rules under § 61.26(g) (for competitive LECs), or §§ 61.38 and 69.3(e)(12) (for rate-of-return LECs).

53. In response to comments, the rule we adopt specifically states that a LEC that is not itself engaged in access stimulation, but is an intermediate access provider for a LEC engaged in access stimulation, shall not itself be deemed a LEC engaged in access stimulation. In addition, some commenters express concern that the breadth of the proposed rules may pose adverse consequences for non-access-stimulating LECs. NTCA cautions that ''LECs that do not qualify as access stimulators under the Commission's rules but which subtend the same CEA as those who do [may] be inadvertently affected by the Commission's reforms.'' We do not foresee such an issue with the rules. The rules we adopt in this document do not alter the financial responsibilities of any LEC that is not engaged in access stimulation regardless of whether it subtends the same CEA provider as an access-stimulating LEC. We are nevertheless concerned about arguments that high-volume calling providers may not be considered end users. Thus, we make clear that, for purposes of the definition of access stimulation, a high-volume calling provider, such as a ''free'' conference calling provider or a chat line provider, is considered an end user regardless of how that term is defined in an applicable tariff. Thus, a LEC that provides service to such a high-volume calling provider will be considered a rate-of-return local exchange carrier serving end user(s), or a Competitive Local Exchange Carrier serving end user(s).

54. Having amended our access stimulation rules as they relate to the relationship among access-stimulating LECs, ''interexchange carriers,'' and ''intermediate access providers'' for the delivery of access-stimulated traffic, we agree with AT&T on the need to define those terms to provide clarity. We therefore define ''interexchange carrier'' to mean ''a *retail or wholesale* telecommunications carrier that uses the exchange access or information access services of another telecommunications carrier for the provision of telecommunications'' (emphasis added). We define ''intermediate access provider'' to mean ''any entity that carries or processes traffic at any point between the final Interexchange Carrier in a call path and a local exchange carrier engaged in access stimulation, as defined by § 61.3(bbb).'' In adopting this definition, we recognize the Joint CLECs' concern that there may be more than one intermediate access provider in a call path. The use of the phrases ''any entity'' and ''any point'' is broad enough to allow for more than one intermediate access provider between the final IXC and the LEC even though we question the likelihood of this hypothetical. And the access-stimulating LEC will choose the intermediate access provider(s) to deliver the traffic to the LEC. The adopted definitions are slightly different than those proposed in the *Access Arbitrage Notice* to help ensure clarity going forward. We have amended our rules under part 51-Interconnection and have also added conforming rules applicable to access-stimulating LECs to the relevant tariffing sections since these rules will require tariff changes. We believe these changes to the rules proposed in the *Access Arbitrage Notice* will allow better ease of reference.

55. Moreover, we encourage self-policing of our access-stimulation definition and rules among carriers. IXCs and intermediate access providers, including CEA providers, likely will have traffic data to demonstrate infractions of our rules, such as a LEC meeting the conditions for access stimulation but not filing a notice or revised tariffs as discussed in the Implementation section below. If an IXC or intermediate access provider has evidence that a LEC has failed to comply with our access-stimulation rules, it could file information in this docket, request that the Commission initiate an investigation, file a complaint with the Commission, or notify the Commission in some other manner.

56. Finally, we reject several arguments from commenters regarding the definition of access stimulation. First, we reject Wide Voice's suggestion that we abandon the current definition of access stimulation entirely because its usefulness has ''largely expired with the sunsetting of the end office.'' This sentiment is belied by commenters that confirm the current definition has worked as intended to identify LECs engaged in access stimulation. We likewise reject Wide Voice's proposed alternative, which would define access stimulation as ''traffic originating from any LEC behind a CEA tandem with total minutes (inbound + outbound) in excess of 1000 times the number of its subscribers in its service area.'' We agree with commenters that Wide Voice's ''comments are obviously intended to further arbitrage activities, rather than stop them.'' Wide Voice is certified as a competitive LEC in dozens of states, but has not built out facilities in Iowa, South Dakota, and Minnesota. By suggesting that we abandon our current definition of access stimulation in favor of one that applies only in the states with CEA tandems, Wide Voice and others would be free to stimulate access charges without federal regulatory restraint in the 47 states that do not have CEA tandems. Furthermore, the mathematical formula proposed by Wide Voice is too broad because by including originating minutes in the formula, it is not focused on eliminating terminating access stimulation.

57. Second, FailSafe and Greenway suggest that the current access-stimulation definition be made more restrictive. They both argue that the existing traffic growth trigger in the access-stimulation definition—which requires that there is more ''than a 100 percent growth in interstate originating and/or terminating switched access minutes-of-use in a month compared to the same month in the preceding year''—could have the unintended consequence of labelling competitive LECs as engaged in access stimulation ''simply by beginning to provide services'' and thus presumably increasing their volume of traffic from no traffic to some traffic. This suggestion and the concern these parties raise fail for at least two reasons. First, the 100% traffic growth trigger compares a month's switched access minutes with the minutes-of-use from the same month in the previous year. A competitive LEC that was not in business the previous year would not qualify because the absence of any monthly demand in the prior year renders this comparison inapposite, and the requisite calculation to satisfy the trigger cannot be performed. Second, the 100% traffic growth trigger is only one part of that portion of the definition. The competitive LEC must also have a revenue sharing agreement, which presumably a new non-access-stimulating competitive LEC in Greenway's hypothetical would not have. Neither Greenway nor FailSafe cites any LEC that has been misidentified as engaged in access stimulation under the current definition using the traffic growth trigger. They also do not suggest how they would revise the current access-stimulation definition to restrict its possible application and avoid the misidentification they suggest might result. We find that this hypothetical concern is already addressed by the existing rule. FailSafe is similarly concerned that this rule would identify emergency traffic to its cloud service as access stimulation traffic. This concern is unwarranted: our rules do not define types of traffic, but rather define certain LECs as being engaged in access

stimulation. Additionally, LECs that suffer legitimate traffic spikes from events such as natural disasters will have the opportunity to present relevant evidence if they file waiver requests with the Commission.

58. Third, HD Tandem takes the opposite view and argues that the access-stimulation definition should be broadened ''to apply to any carrier with a call path that assesses access charges of any kind (shared or not) and unreasonably refuses to direct connect, or its functional equivalent, with other carriers with reciprocity.'' Similarly, CenturyLink proposes that we shift financial responsibility to any LEC, including those not engaged in access stimulation, that declines a request for direct connection for terminating traffic. Both of these suggestions go beyond the issue of access stimulation and the current record does not provide a sufficient basis to evaluate the impact of either proposal on LECs that are not engaged in access stimulation. And, as discussed above, we do not adopt the Commission's direct connection proposal, at this time, and also find that nothing in the record would justify HD Tandem's suggested expansion of the access-stimulation definition.

59. Fourth, we reject Inteliquent's and HD Tandem's suggestions that we add a mileage cap to the access-stimulation definition. When Inteliquent proposed the 6:1 ratio, it also proposed that the access stimulation definition should require that ''[m]ore than 10 miles [be] billed between the tandem and the serving end office,'' and that the end office have interstate terminating minutes-of-use of ''at least 1 million in one calendar month.'' We are including a minutes-of-use trigger with the new alternate 10:1 traffic ratio for rate-of-return LECs. However, we decline to add a cap on transport mileage because as HD Tandem admits, a mileage cap ''would not eliminate the use of intercarrier compensation to subsidize 'free' or 'pay services.'' In supporting a mileage cap of 15 miles, Wide Voice claims that such a cap would reduce the estimated $80 million cost of access stimulation by about $54 million. However, Wide Voice's calculations appear to assume that all transport costs are eliminated not just those that exceed 15 miles, and assumes that access-stimulating LECs and the intermediate access providers that serve them would not simply adjust their business practices to take into account such a cap.

60. Indeed, a mileage cap would invite access stimulation because a LEC could avoid being designated as an access-stimulating LEC and incurring the corresponding financial responsibly by limiting its transport charges to avoid tripping the mileage cap trigger. For example, a definition of access stimulation that included a requirement that to fit the definition a LEC bill for 10 miles or more of transport would allow a LEC to bill for just under 10 miles of transport while having a terminating-to-originating traffic ratio of 1000:1. Furthermore, a mileage cap would not deter access-stimulating LECs that receive transport from intermediate access providers that do not charge mileage, such as Wide Voice and HD Tandem.

61. We also reject arguments that there was insufficient notice for the addition of additional triggers for the definition of access stimulation. The *Access Arbitrage Notice* clearly sought comment on changing the definition of access stimulation. Indeed, there was express notice that the Commission could adopt a rule ''remov[ing] the revenue sharing portion of the definition'' of access stimulation, leaving a definition triggered by either a 3:1 traffic ratio or 100% year-over-year traffic growth alone. We are not persuaded that commenters have identified concerns about a rule relying on the 6:1 or 10:1 traffic ratios that they should not already have recognized the need to raise in response to that express notice.

62. Some commenters have complained that not enough data was submitted in the record in this proceeding. However, in the *Access Arbitrage Notice,* the Commission asked whether there are ''additional, more-current data available to estimate the annual cost of arbitrage schemes to companies, long distance rate payers, and consumers in general''; whether there are ''data available to quantify the resources being diverted from infrastructure investment because of arbitrage schemes''; whether ''consumers are indirectly affected by potentially inefficient networking and cost recovery due to current regulations and the exploitation of those regulations''; and whether there are ''other costs or benefits'' the Commission should consider. The Commission asked for the costs and benefits of its two-prong approach, and the ''costs and benefits of requiring a terminating provider that requires the use of a specific intermediate access provider to pay the intermediate access provider's charges.'' The Commission could not have been more clear in its request for data. If the commenters are dissatisfied with the amount of data provided to the Commission, it certainly was not due to the Commission not asking for it.

63. Contrary to several parties' assertions, the Commission's adoption of the 6:1 traffic trigger is not arbitrary and capricious. This section of the *Order* reviews the numerous viewpoints expressed by the parties to this proceeding and explains our rationales for our decisions. We have considered and provided reasons for rejecting a mileage cap, despite the fact that Peerless and West's emphasis on the mileage cap arguably is self-serving. Likewise, Peerless and West's alleged concern for the impact of our decision on ''innocent LECs'' has been addressed several times in this *Order.* Our concern about ''innocent rate-of-return LECs'' and our review of the data submitted by parties such as NTCA, AT&T, and Inteliquent supports the adoption of the 6:1 and 10:1 traffic ratios. We also have explained ways that ''innocent LECs,'' that have traffic patterns that would cause them to surpass the traffic ratios, may seek assistance from the Commission. As Peerless and West admit, a court's review of an agency's action is a narrow one. Peerless and West cannot discount our extensive review and consideration of the numerous viewpoints expressed in this proceeding, and our explanation for rejecting or accepting each viewpoint. The fact that Peerless and West may disagree with this agency's decision is not dispositive. The Commission has gone to great lengths to explain the facts found and to articulate a rational connection with the choices made.

3. Additional Considerations

64. *Self-Help.* Our focus here is on reducing access stimulation, and no commenters have argued that limiting self-help remedies will further that goal. As the Commission did in the *USF/ICC Transformation Order,* we caution parties to be mindful ''of their payment obligations under the tariffs and contracts to which they are a party.'' We discourage providers from engaging in self-help except to the extent that such self-help is consistent with the Act, our regulations, and applicable tariffs. Intercarrier compensation disputes involving payment for stimulated traffic have become commonplace, with IXCs engaging in self-help by withholding payment to access-stimulating LECs. As a result, several commenters request that we address self-help remedies in access arbitrage disputes, and others would like us to disallow self-help more broadly. We decline those requests. Disallowing self-help, whether in the access stimulation context or not, would be inconsistent with existing tariffs,

some of which permit customers to withhold payment under certain circumstances.

65. We also decline to adopt other tariff-related recommendations made by commenters. AT&T, for example, suggests that we ''eliminate tariffing of tandem and transport access services on access stimulation traffic.'' We believe this suggested solution is unnecessary in light of the more narrowly drawn solutions to access stimulation that we adopt in this document. Furthermore, there are protections provided by tariffs—such as the ability to dispute charges described above—that should not be eliminated as a result of an unexplored suggestion made in passing in this proceeding. AT&T also suggests that we ''make clear that LECs can include in their tariffs reasonable provisions that allow the LECs to decline to provide [telephone lines and/or access services] to a chat/conference provider.'' We decline to suggest tariff language changes in this proceeding beyond those necessary to implement our rule changes. Each carrier is responsible for its own tariffs and tariff changes are subject to the tariff review process.

66. *Mileage Pumping and Daisy Chaining.* ''Mileage pumping'' occurs when a LEC moves its point of interconnection, on which its mileage-based, per-minute-of-use transport charges are based, further away from its switch for no reasonable business purpose other than to inflate mileage charges. ''Daisy chaining'' occurs when a provider adds superfluous network elements so as to reclassify certain network functions as tandem switching and tandem switched transport, for which terminating access is not yet scheduled to be moved to bill-and-keep. Because there is nothing in the record to indicate that mileage pumping and daisy chaining are significant issues outside of the access stimulation context, we decline to adopt a new rule specifically addressing these issues. We believe that placing the financial obligation for tandem switching and tandem switched transport charges on the access-stimulating LEC should eliminate the practices of mileage pumping and daisy chaining.

67. Because our new rules will encourage access-stimulating LECs to make more efficient decisions, the rules should negate the need for T-Mobile's proposal that would establish multiple interconnection points nationwide where providers could choose to connect either directly or indirectly, and HD Tandem's suggestion that LECs engaged in access stimulation be required to offer what HD Tandem terms an ''internet Protocol Homing Tandem.'' Both proposals would require us to decide what would be efficient for affected providers without the benefit of specific, relevant information about their networks. Therefore, we decline to adopt these proposals. Any remaining abuses of illegitimate mileage pumping or daisy chaining activities after the implementation of our new and modified access-stimulation rules can be addressed on a case-by-case basis in complaints brought pursuant to section 208 of the Act.

68. Finally, we do not address the merits of several other issues raised in the record because they are outside the scope of this proceeding or are insufficiently supported with data and analysis. For example, some parties used this proceeding as an opportunity to air grievances related to a dispute that was twice before the South Dakota Public Utilities Commission. We agree with the South Dakota 9–1–1 Coordination Board and SDN that it is not appropriate to raise a state dispute regarding efforts to implement next generation 911 service in this rulemaking proceeding in the hope that the Commission will include language in this *Order* to address that particular dispute.

69. A few parties argue that we should adopt rules regarding the rates providers charge for certain services. For example, the Joint CLECs suggest that we adopt a ''uniform rate for access-stimulating traffic.'' Yet those carriers provide no justification for adopting a specific rate, nor does the record otherwise provide a basis to fill that void. The Commission previously adopted rate caps for access-stimulating LECs and the result was a reduction in the cost of arbitrage but not its elimination. We therefore take a different approach in this *Order.* The rules we adopt in this document do not affect the rates charged for tandem switching and transport. HD Tandem and Wide Voice's arguments that we do not address ''rate disparities'' or ''equalize compensation'' are misplaced. Our goal is to eliminate the incentive for access-stimulation schemes to take advantage of rate disparities and unequal compensation opportunities, and we do so by reversing the financial responsibility for paying tandem switching and transport, from IXCs to access-stimulating LECs, but the rates for those services are unaffected. We find that by reversing the financial responsibility, customers will receive more accurate price signals and implicit subsidies will more effectively be reduced. We are not persuaded that continuing to allow access-stimulating LECs to collect revenues from access charges, even if ''equalized,'' would eliminate the arbitrage problem. To the contrary, such action would provide access-stimulating LECs with a protected revenue stream and thus encourage arbitrage. HD Tandem also suggests that ''it would be problematic for the Commission to involve itself in consumer pricing.'' We agree, and the rules we adopt in this document do not require any changes to consumer prices.

B. Implementation Issues

70. We amend our part 51 rules governing interconnection and our part 69 rules governing tariffs to effectuate the requirements that: (1) Access-stimulating LECs assume financial responsibility for terminating interstate or intrastate tandem switching and tandem switched access transport for any traffic between the LEC's terminating end office or equivalent and the associated access tandem switch; and (2) access-stimulating LECs provide notice of their assumption of that financial responsibility to all affected parties. To ensure that parties have enough time to come into compliance with our rules, we adopt a reasonable transition period for parties to implement any necessary changes to their tariffs and to adjust their billing systems. This *Order* and the rules adopted herein, except the notice provisions which require approval from the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act (PRA), will become effective 30 days after publication of the summary of this *Order* in the **Federal Register**. We give access-stimulating LECs and affected intermediate access providers an additional 45 days to come into compliance with those rules.

71. With respect to the new notice provisions in our rules, which require OMB approval pursuant to the PRA, within 45 days of PRA approval, each existing access-stimulating LEC must provide notice to the Commission and to any affected IXCs and intermediate access providers that the LEC is engaged in access stimulation and accepts financial responsibility for all applicable terminating tandem switching and transport charges. As proposed in the *Access Arbitrage Notice,* notice to the Commission shall be accomplished by filing a record of its access-stimulating status and acceptance of financial responsibility in the Commission's *Access Arbitrage* docket on the same day that the LEC issues such notice to the IXC(s) and intermediate access provider(s). This 45-day tariffing and notice time period will begin to run for new access-stimulating LECs from the time they meet the

definition of a LEC engaged in access stimulation.

72. Some commenters have suggested that a longer transition for the transfer of financial responsibility is warranted. We disagree. There is no reason to allow access-stimulating LECs and the intermediate access providers that they choose to use to continue to benefit from access arbitrage schemes. A transition period of 45 days after the effective date of the rules—or, in the case of a LEC that is newly deemed to meet the definition of a LEC engaged in access stimulation, 45 days after that date—is sufficient time for access-stimulating LECs and the affected intermediate access providers to amend their billing practices and to make any tariff changes deemed necessary, and to prepare to close out then-current billing cycles under previous arrangements at that billing cycle's natural end. Commenters have argued that a mid-cycle billing change would not be administrable, but a mid-cycle change is not required by these rules.

73. In particular, several commenters argue the draft *Order* leaves too little time for access-stimulating LECs to come into compliance, suggesting that an 18–24 month period is warranted to allow them to change their business models and avoid the definitional triggers. We first note that there is a distinction between how much time it will take for an entity to come into compliance with the rules and how much time it will take to change their business model in light of the change in the rules. There is contrary evidence in the record, suggesting that access-stimulating LECs are able to relocate their traffic in days, if not hours, rather than weeks and months. Further, nothing in this *Order* either requires or impedes an access-stimulating LEC's ability to make changes to their business model should they choose to do so in light of the rules we adopt in this document. In addition, the rules provide a clear process by which an access-stimulating LEC can transition out of being categorized as such. We also reject FailSafe's request for a three-year phaseout of access charges due to independent telephone companies' provision of services related to emergency communication. FailSafe has not identified any concrete examples under which a carrier's provision of services related to emergency communication would have or will trip the new definition(s) of access stimulation, and the record is devoid of any support of FailSafe's concern.

74. The Joint CLEC's further claim that the 45 day time period for implementation leaves ''LECs with no other option but to flash cut their primary revenue stream, going from having a lawful means of earning profits to having a significant cost center in a matter of days.'' As a result, the Joint CLECs argue that the new access stimulation rules violate the Takings Clause of the Fifth Amendment of the Constitution because they ''eliminate[] access stimulation as a revenue stream for the CLECs and provide[] no realistic alternative means of compensation for them.'' We consider the precedent on government takings and find that this argument is without merit. In the *Penn Central* case, the Supreme Court explained that in evaluating regulatory takings claims, three factors are particularly significant: (1) The economic impact of the government action on the property owner; (2) the degree of interference with the property owner's investment-backed expectations; and (3) the ''character'' of the government action. Those factors do not support a regulatory takings argument here.

75. First, we are not persuaded by the record here that the economic impact of our rules is likely to be so significant as to demonstrate a regulatory taking. Our rules leave carriers free to respond in a number of ways—including in combination—such as by changing end-user rates to account for the access-stimulating LEC assuming financial responsibility for the intermediate access providers' charges for delivering traffic under our rules; or by self-provisioning or selecting an alternative intermediate access provider or route for traffic where that would be a less costly option, or by seeking revenue elsewhere, for example, through an advertising-supported approach to offering free services or services provided at less than cost. Although certain commenters cite declarations purporting to demonstrate that the new rules would ''both wipe out the value of [prior] investments and prevent the CLECs from operating as financially viable enterprises,'' we find them unpersuasive. The declarations do not meaningfully grapple with the viability of the range and potential combination of alternatives for responding to the new rules through any analysis of the details of cost data or other information associated with such scenarios, instead simply asserting that customers inevitably will shift to other providers. Insofar as the declarations also express other concerns about the administration of the rules without justification for, or quantification of, the likely effects, we likewise find them unpersuasive. These shortcomings are particularly notable given ''the heavy burden placed upon one alleging a regulatory taking.'' In addition, we are not persuaded that declarations from three access-stimulating competitive LECs and three ''free'' conference calling providers would call into question our industry-wide rules in any event. Should a given carrier actually be able to satisfy the ''heavy burden'' of demonstrating that the rule would result in a regulatory taking as applied to it, it is free to seek a waiver of the rules.

76. Second, our actions do not improperly impinge upon investment-backed expectations of carriers that engaged in access stimulation under the 2011 rules. The Commission has been examining how best to address problems associated with access stimulation for years, taking incremental steps to address it as areas of particular concern arise and evolve. This has included seeking comment even on proposals that would declare access stimulation *per se* unlawful, at least in certain scenarios. Indeed, the record reveals that under the existing rules many disputes have arisen regarding intercarrier compensation obligations in the scenarios our new rules are designed to directly address. In light of this context, we are not persuaded that any reasonable investment-backed expectations can be viewed as having been upset by our actions here.

77. Finally, consistent with the reasoning of *Penn Central,* we find the character of the governmental action here cuts against a finding of a regulatory taking, given that it ''arises from [a] public program adjusting the benefits and burdens of economic life to promote the common good,'' rather than involving a ''physical invasion'' by government. In particular, our action in this document substantially advances the legitimate governmental interests under the Act of discouraging inefficient marketplace incentives, promoting efficient communications traffic exchange, and guarding against implicit subsidies contrary to the universal service framework of section 254 of the Act.

78. Turning to the other implementation issues. No commenter opposed the proposed notice requirements, and others agreed that having access-stimulating LECs notify the Commission at the same time they notify affected intermediate access providers and IXCs will provide transparency and also address concerns raised in the record about confusion over whether a LEC is an access-stimulating LEC. Affected carriers have had ample notice of these changes, and the PRA approval process will provide

additional time for carriers to prepare before the notice requirement comes into effect.

79. We further amend our rules to require that when a LEC ceases engaging in access stimulation in accordance with § 61.3(bbb), the LEC must also notify affected IXCs and intermediate access providers of its status as a non-access-stimulating LEC and of the end of its financial responsibility. We also require that an access-stimulating LEC publicly file a record of the end of its access-stimulating status and the end of its financial responsibility in the Commission's *Access Arbitrage* docket on the same day that the LEC issues such notice to the IXC(s) and intermediate access provider(s). We decline to further prescribe the steps necessary to reverse the financial responsibility and leave it to the parties to work with each other to make the necessary changes in a reasonable period of time.

80. We believe these changes will reduce complications that could arise from coterminous dates for giving notice and for shifting financial responsibility. We decline to further prescribe any elements of this notice obligation and instead leave it to the parties to clearly and publicly manifest their status and intent when providing the requisite notice.

81. *Implementation Concerns Are Surmountable.* We are not persuaded that there are implementation concerns significant enough for us to reject the Commission's proposal regarding the shifting of financial responsibility as an undue burden on providers. In its comments, SDN correctly observes that our rules may well require SDN to amend its tariff so that SDN can bill access-stimulating LECs for its services. There is no reason to believe that this will be onerous, and SDN has not provided evidence of material incremental costs of making the necessary changes to implement billing arrangements with subtending access-stimulating LECs.

82. SDN expresses concern that disputes may arise about whether certain traffic is access-stimulation traffic. However, traffic will be classified based on the status of the terminating LEC—if the terminating LEC is an access-stimulating LEC, all traffic bound for it will be subject to the changed financial responsibility. We expect that the new requirements for such carriers to self-identify will prevent the vast majority of potential disputes between IXCs and intermediate access providers concerning whether the LEC to which traffic is bound is engaged in access stimulation. An intermediate access provider's duty to cease billing an IXC for tandem switching and transport services attaches only after receiving written notice from an access-stimulating LEC. Thus, if a LEC engaged in access stimulation fails to notify the intermediate access provider (either due to a good faith belief that it does not meet the definition of being an access-stimulating LEC or simply failing to provide the notice, for whatever reason), an IXC's recourse is against the LEC, not the intermediate access provider.

83. In their comments, the Joint CLECs assert that the explanation in the *Access Arbitrage Notice* of the intermediate access provider's costs that must be borne by an access-stimulating LEC is vague. We disagree. The Joint CLECs appear primarily to take issue with the use of the word ''normally'' in such an explanation but fail to recognize that the explanation that they quote is from the text of the *Access Arbitrage Notice,* not the proposed rule. The proposed rule refers to ''the applicable Intermediate Access Provider terminating tandem switching and terminating tandem switched transport access charges relating to traffic bound for the access-stimulating local exchange carrier.'' It is a relatively simple matter to determine the charges applicable to intermediate access service being provided by an intermediate access provider, particularly when the relevant service has already been provided for years (albeit with a different billed party).

84. We are similarly unpersuaded that the implementation issues raised by the Joint CLECs create issues of real concern. The issues raised by the Joint CLECs include: (1) Identifying the relevant intermediate access provider when an access-stimulating LEC connects to IXCs through multiple such providers; (2) determining how financial responsibility should be split when an intermediate access provider provides more than the functional equivalent of tandem switching and tandem switched transport in the delivery of the call; and (3) the CEA providers' rates. We nonetheless clarify that an access-stimulating LEC is responsible for all of the charges for tandem switching and tandem switched transport of traffic from any intermediate access provider(s) in the call path between the IXC and the access-stimulating LEC.

C. Legal Authority

85. The Commission last attacked access arbitrage in the 2011 *USF/ICC Transformation Order,* as part of comprehensive reform of the ICC system. The Commission undertook ICC reform informed by three principles and interrelated goals, all of which inform the *Order* we adopt in this document. First, the Commission sought to ensure that the entities choosing what network to use would have appropriate incentives to make efficient decisions. In that regard, in the *USF/ICC Transformation Order,* the Commission found that ''[b]ill-and-keep brings market discipline to intercarrier compensation because it ensures that the customer who chooses a network pays the network for the services the subscriber receives. . . . Thus, bill-and-keep gives carriers appropriate incentives to serve their customers efficiently.'' As one of the first steps toward bill-and-keep, the Commission adopted a multi-year transition period to move terminating end office access charges to bill-and-keep.

86. Second, the Commission endeavored to eliminate implicit subsidies, consistent with the mandates of section 254 of the Act. The Commission recognized the historical role access charges played in advancing universal service policies, finding that ''bill-and-keep helps fulfill the direction from Congress in the 1996 Act that the Commission should make support explicit rather than implicit'' by requiring any such subsidies, if necessary, be provided explicitly through policy choices made by the Commission under section 254 of the Act.

87. Third, the Commission weighed the regulatory costs of the steps it took in reforming the ICC regime. In so doing, it recognized that ''[i]ntercarrier compensation rates above incremental cost'' were enabling ''much of the arbitrage'' that was occurring. The Commission adopted rules aimed at reducing an access-stimulating LEC's ability to unreasonably profit from providing access to high-volume calling services. Although the Commission concluded that it might theoretically have been possible to establish some reasonable, small intercarrier compensation rate based on incremental cost, it rejected that approach because doing so would lead to significant regulatory burdens to identify and establish the appropriate rate(s), an approach the Commission sought to avoid in adopting a move toward a bill-and-keep methodology. Instead, to address access stimulation, the Commission capped the end office termination rates access-stimulating LECs could charge.

88. Based on our review of the record, we find that requiring IXCs to pay the tandem switching and tandem switched transport charges for access-stimulation

traffic is an unjust and unreasonable practice that we have authority to prohibit pursuant to section 201(b) of the Act. In 2011, when the Commission adopted the access-stimulation rules, its focus was on terminating end office access charges and it found that the high access rates being collected by LECs for access-stimulation traffic were unjust and unreasonable under section 201(b) of the Act. Building on that legal authority and the Commission's goals for ICC reform in the *USF/ICC Transformation Order* here, we extend that logic to the practice of imposing tandem switching and tandem switched transport access charges on IXCs for terminating access-stimulation traffic. We find that that practice is unjust and unreasonable under section 201(b) of the Act and is therefore prohibited.

89. In the *USF/ICC Transformation Order,* the Commission sought to ensure that the entities choosing the network and traffic path would have the appropriate incentives to make efficient decisions and recognized that ICC rates above cost enable arbitrage. The Commission also sought to eliminate implicit subsidies allowed by arbitrage, consistent with section 254 of the Act. Given changes in the access-stimulation ''market'' after 2011, the access-stimulation rules adopted as part of the broader intercarrier compensation reforms in the *USF/ICC Transformation Order* now fail to adequately advance those goals. Allowing access-stimulating LECs to continue to avoid the cost implications of their decisions regarding which intermediate access providers IXCs must use to deliver access-stimulated traffic to the LECs drives inefficiencies and leaves IXCs to pass the resultant inflated costs on to their customer bases. The rules we adopt in this *Order,* requiring the access-stimulating LEC to be responsible for paying those charges, counter the perverse incentives the current rules create for LECs to choose expensive and inefficient call paths for access-stimulation traffic and better advance the goals and objectives articulated by the Commission in the *USF/ICC Transformation Order.*

90. Of course, the Commission's focus on the importance of efficient interconnection did not begin with the *USF/ICC Transformation Order.* It can also be found, for example, in the initial Commission Order implementing the 1996 Act. In that Order, in considering telecommunications carriers' interconnection obligations, the Commission specified that carriers should be permitted to employ direct or indirect interconnection to satisfy their obligations under section 251(a)(1) of the Act ''based upon their most efficient technical and economic choices.'' The focus on efficient interconnection is consistent with Congressional direction to the Commission in, for example, section 256 of the Act which requires the Commission to oversee and promote interconnection by providers of telecommunications services that is not only ''effective'' but also ''efficient.'' By adopting rules crafted to encourage terminating LECs to make efficient choices in the context of access stimulation schemes, the rules are thus consistent with longstanding Commission policy and Congressional direction.

91. Likewise, the record reveals that the incentives associated with access stimulation lead to artificially high levels of demand, often in rural areas where such levels of demand are anomalous and largely unaccounted-for by existing network capabilities. This, in turn, can result in call completion problems and dropped calls. For a number of years, the Commission has sought to address concerns about rural call completion problems—a concern that Congress recently reinforced through its enactment of section 262 of the Act. Adopting rules that help mitigate call completion problems in rural (and other) areas thus also harmonizes our approach to access stimulation under section 201(b) with those broader policies.

92. We also conclude that our new rules are more narrowly targeted at our concerns regarding the terminating LECs' reliance on inefficient intermediate access providers in circumstances that present the greatest concern—those involving access stimulation—compared to other alternatives suggested in the record, such as adopting rules that would regulate the rates of access-stimulating LECs or of the intermediate access providers they rely on. The record does not reveal any rate benchmarking mechanism that would effectively address our concerns, and establishing regulatory mechanisms to set rates based on incremental cost, as some parties have suggested, would implicate the same administrability concerns that dissuaded the Commission from embarking on such an approach in the *USF/ICC Transformation Order.* We also are guided by past experience where attempts to address access stimulation through oversight of rate levels have had short-lived success that quickly was undone through new marketplace strategies by access-stimulating LECs.

93. To the extent that access stimulation activities have the effect of subsidizing certain end-user services—allowing providers to offer the services to their customers at no charge in many instances—we also conclude that regulatory reforms that eliminate those implicit subsidies better accord with the objectives of section 254 of the Act. Specifically, Congress directed that universal service support ''should be explicit and sufficient to achieve the purposes'' of section 254. Congress established a framework in section 254 for deciding not only how to provide support—*i.e.,* explicitly, rather than implicitly—but also for deciding what to support. Any implicit subsidies resulting from access stimulation are based solely on the whims of the individual service providers, which are no substitute for the considered policy judgments the Commission makes consistent with the framework Congress established in section 254.

94. These same considerations also independently persuade us that it is in the public interest to adopt the access stimulation rules in this *Order* under section 251(b)(5) of the Act. The *USF/ICC Transformation Order* already ''br[ought] all traffic within the section 251(b)(5) regime.'' In other words, under that precedent ''when a LEC is a party to the transport and termination of access traffic, the exchange of traffic is subject to regulation under the reciprocal compensation framework'' of section 251(b)(5). And it clearly is traffic exchanged with LECs that is at issue here. Our rules govern financial responsibility for access services that traditionally have been considered ''exchange access,'' and providers of such services meet the definition of a LEC.

95. In particular, just as we conclude that our rules reasonably implement the ''just and reasonable'' framework of section 201(b) of the Act as workable rules to strengthen incentives for efficient marketplace behavior and advance policies in sections 251, 254, and 256 of the Act, we likewise conclude that they are in the public interest as rules implementing section 251(b)(5). The Commission explained in the *USF/ICC Transformation Order* that section 201(b)'s statement that ''[t]he Commission may prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this Act'' gives the Commission broad ''rulemaking authority to carry out the 'provisions of this Act,' which include § [ ] 251.'' Indeed, the Commission elaborated at length on the theory of its legal authority to implement section 251(b)(5) in the *USF/ICC Transformation Order,* which applies to our reliance on that authority here, as well.

96. We reject arguments that section 251 of the Act does not provide authority for our action here. Although the Joint CLECs contend the action here falls outside the scope of ''reciprocal compensation'' under section 251(b)(5) because it ''deprives [certain] carriers of access revenues without providing any reciprocal benefit,'' they approach the issue from an incorrect perspective. In evaluating whether a new approach to reciprocal compensation is in the public interest, the Act does not require us to ensure that each carrier receives some benefit from the change relative to the *status quo.* Furthermore, our actions here are one piece of a broader system of intercarrier compensation that takes the form of reciprocal arrangements among carriers. As part of this overall framework, carriers have packages of rights and obligations that, in some defined cases allow them to recover revenues from other carriers and in other cases anticipate recovery from end users. By this *Order,* we simply modify discrete elements of that overall framework. We thus reject claims that our actions here are not part of reciprocal compensation arrangements for purposes of section 251(b)(5).

97. Nor are we persuaded by arguments that section 251(b)(5) authority is absent here because the Commission ''promised a bill-and-keep regime that is 'technologically' and 'competitively neutral' '' and our rules here allegedly fall short. As a threshold matter, this *Order* does not purport to adopt a bill-and-keep regime for access-stimulation traffic, but continues the Commission's efforts to address arbitrage or other concerns on an interim basis pending the completion of comprehensive intercarrier compensation reform. Agencies are free to proceed incrementally, ''whittl[ing] away at them over time, [and] refining their preferred approach as circumstances change and they develop a more nuanced understanding of how best to proceed'' rather than attempting to ''resolve massive problems in one fell regulatory swoop.'' Further, although this *Order* cites illustrative examples of the types of traffic and types of carriers that have been the focus of many access stimulation disputes, the rules we adopt apply by their terms whenever they are triggered, without regard to the content or type of traffic (*e.g.,* conference calling traffic or otherwise) and regardless of the size or location of the access-stimulating carrier.

98. Finally, even assuming *arguendo* that the specific Commission rules adopted to address access stimulation here were viewed as falling outside the scope of section 251(b)(5), our action would, at a minimum, fall within the understanding of the Commission's role under section 251(g) reflected the *USF/ICC Transformation Order.* As the Commission stated there, section 251(g) grandfathers historical exchange access requirements ''until the Commission adopts rules to transition away from that system,'' including through transitional rules that apply pending the completion of comprehensive reform moving to a new, permanent framework under section 251(b)(5). The access stimulation concerns raised here arise, in significant part, because of ways in which the Commission's planned transition to bill-and-keep is not yet complete and, in that context, we find it necessary to address problematic conduct that we observe on a transitional basis until that comprehensive reform is finalized.

99. We also find unpersuasive arguments that the proposed and existing access-stimulation rules are ''discriminatory'' because they treat access-stimulating LECs differently than other LECs. Section 202(a) of the Act prohibits carriers from ''unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality, or to subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage.'' It is neither unjust nor unreasonable to treat access-stimulating LECs differently from non-access-stimulating LECs. Section 202(a) does not apply to actions carriers take in compliance with requirements adopted by the Commission, particularly where, as here, the Commission finds those rules necessary under an analysis of what is ''just and reasonable.'' More generally, actions by the Commission are subject to the Administrative Procedure Act requirement that they must not be arbitrary and capricious, and courts have found only that the Commission ''must provide adequate explanation before it treats similarly situated parties differently.'' The existing access-stimulation rules adopted by the Commission in 2011, which treat access-stimulating LECs differently than other LECs, have been reviewed and approved by the Tenth Circuit Court of Appeals, which specifically held that the rules were not arbitrary and capricious and that the Commission had explained its rationale for the differing treatment. The rules we adopt in this document, treating access-stimulating LECs differently from other LECs, are similarly well-reasoned and justified.

100. Contrary to the Joint CLECs' claim, making the access-stimulating LEC, rather than the IXC, responsible for paying intermediate access provider(s)' terminating tandem access charges simply changes the party responsible for paying the CEA, or other intermediate access provider(s), for carrying that traffic. We make the party responsible for selecting the terminating call path responsible for paying for its terminating tandem switching and tandem switched transport. The act of stimulating traffic to generate excessive access revenues requires that we treat that traffic differently than non-stimulated traffic to address the unjust and unreasonable practices it fosters, as well as the implicit subsidies access stimulation creates. Further, we are not failing to recognize the potential impacts on CEA providers if access-stimulation traffic is removed from their networks. If a CEA provider's demand changes, the existing tariff rules, applicable to the calculation of a CEA provider's tariffed charges, will apply—on a nondiscriminatory basis.

101. Equally meritless is the Wide Voice claim that sections 201(b) and 251(b)(5) of the Act ''permit the Commission to establish rate uniformity, not rate disparity, which is what would result were the Commission to make access stimulators switched access *purchasers* rather than switched access *providers. . . .* '' Nothing in the text of those provisions requires rates to be uniform, however. And, more fundamentally, shifting the responsibility for paying a rate does not change the rate. In addition, we are moving toward the stated goal of a bill-and-keep methodology, not toward establishing a rate for access-stimulation traffic. We make no changes to rates here and sections 201(b) and 251(b)(5) of the Act support our adoption of the modified access-stimulation rules in this *Order.* The Joint CLECs also argue that making access-stimulating LECs financially responsible for the terminating tandem switching and transport of traffic delivered to their end offices by adopting the Commission's Prong 1 proposal would violate the Tenth Circuit Court of Appeals' holding that section 252(d) of the Act reserves to the states the determination of carriers' network ''edge.'' Shifting the financial responsibility for the delivery of traffic to access-stimulating LEC end offices does not move the network edge or affect a state's ability to determine that edge. The Joint CLECs' argument is

misguided. Section 252(d) governs ''agreements arrived at through negotiation.'' Just as the Commission's adoption of bill-and-keep as the ultimate end state for intercarrier compensation shifts the recovery of costs from carriers to end users, here we shift the recovery of costs associated with the delivery of traffic to an access-stimulating LEC's end office from IXCs to the LEC. Our determination to shift the recovery of costs associated with the delivery of traffic to an access-stimulating LEC's end office from IXCs to the LEC does not interfere with ''agreements arrived at through negotiation'' and therefore does not affect a state's rights or responsibilities under section 252 of the Act with respect to voluntarily negotiated interconnection agreements.

III. Modification of Section 214 Authorizations for Centralized Equal Access Providers

102. To facilitate the implementation of the rules we adopt in this document, we modify the section 214 authorizations for Aureon and SDN—the only CEA providers with mandatory use requirements—to permit traffic terminating at access-stimulating LECs that subtend those CEA providers' tandems to bypass the CEA tandems. By eliminating the mandatory use requirements, we enable IXCs to use whatever intermediate access provider an access-stimulating LEC that otherwise subtends Aureon or SDN chooses. Eliminating the mandatory use requirements for traffic bound for access-stimulating LECs will also allow IXCs to directly connect to access-stimulating LECs where such connections are mutually negotiated and where doing so would be more efficient and cost-effective.

103. Historically, IXCs delivering traffic to LECs that subtended the CEA tandems were required to use Aureon's and SDN's tandems, because terminating traffic to those LECs was subject to mandatory use requirements contained in the CEA providers' section 214 authorizations. Wide Voice suggests that we ''[b]reak[ ] the CEA monopoly'' to the extent needed so that other providers can serve the access-stimulating LECs. This *Order* does that. Sprint suggests that we eliminate the CEA mandatory use requirements for the termination of *all* traffic. There is no evidence that doing so would be in the public interest, or even that there are other tandem switching and transport providers available to serve other LECs subtending the CEA providers. This proceeding is focused on access stimulation. We, therefore, adopt rules that are narrowly focused on access stimulation.

104. Aureon and SDN present seemingly opposing views. Aureon wants to continue to carry access-stimulation traffic on its CEA network because it believes the traffic volumes will drive down its rates to a point where arbitrage will not be profitable. At the outset, we note there is nothing preventing a CEA provider from voluntarily reducing its rates to keep such traffic on its network rather than completely forgoing the revenue opportunity. Unlike Aureon, SDN wants the Commission to prohibit access-stimulating LECs from using SDN's tandem. Because we expect that our adopted rules will effectively remedy the incentives associated with the differences in tandem switching and tandem switched transport rates between CEA providers and other intermediate access providers, we decline to prohibit access-stimulating LECs from subtending CEA providers.

105. Aureon complains that if the subtending LECs use direct connections instead of the CEA network, there will be increased arbitrage, and it would put Aureon out of business. However, evidence in the record shows that much of the access-stimulation traffic is currently bypassing Aureon's and SDN's networks. Also, intermediate access providers, such as the CEA providers, remain free to collect payment for their tandem switching and transport services if the access-stimulating LEC chooses to use their services. In that situation, the intermediate access provider will receive payment from the access-stimulating LEC, and may not collect from IXCs. If access-stimulating LECs decide to move their traffic off of a CEA network and the CEA provider has significantly less traffic on its network, the CEA provider may file tariffs with higher rates provided that such tariff revisions are consistent with our rules applicable to CEA providers. Furthermore, neither Aureon nor SDN has provided any data that would show that operating a CEA network without the access-stimulating LECs would be economically unviable.

106. Aureon and SDN ask us to reject any proposals that would modify their section 214 authorizations. Aureon voices concern that requiring access-stimulating LECs to pay for the use of the CEA tandem would be a drastic modification to its section 214 authorization. Aureon does not explain what would need to change in its section 214 authorization, and we are not aware of any change that needs to be made in this regard. Aureon expresses concern that a modification to its section 214 authorization will impact its ability to provide competitive services to rural areas, and to maintain its investment in its fiber-optic network. Our decision to permit traffic being delivered to an access-stimulating LEC to be routed around a CEA tandem does not affect traffic being delivered to non-access-stimulating LECs that remain on the CEA network, and will not impact Aureon's ability to serve rural areas, contrary to Aureon's concern. Similarly, Aureon argues that if LECs pay for the terminating traffic, Aureon would need to make ''significant changes to the compensation arrangements for CEA service, which would render it financially infeasible for the CEA network to remain operational.'' But Aureon provides no supporting detail for these claims.

107. When the section 214 authorizations were granted three decades ago, there were no individual LECs subtending these CEA providers exchanging traffic, particularly terminating traffic, with IXCs at close to access-stimulation levels—and no reports of subtending LECs that would be sharing excess switched access charge revenue with anyone. In fact, the original applications of the Iowa and South Dakota CEA providers stated that the majority of their revenues would be for intrastate calls. Now, AT&T reports that ''twice as many minutes were being routed per month to Redfield, South Dakota (with its population of approximately 2,300 people and its 1 end office) as is routed to *all* of Verizon's facilities in New York City (with its population of approximately 8,500,000 people and its 90 end offices).'' Access stimulation has upended the original projected interstate-to-intrastate traffic ratios carried by the CEA networks.

108. The Commission may modify or revoke section 214 authority to address abusive practices or actions when necessary. In this document, we find that the public interest will be served by changing any mandatory use requirement for traffic bound to access-stimulating LECs to be voluntary usage. We determine that access stimulation presents a reasonable circumstance for departing from the mandatory use policy.

109. In sum, it is in the public convenience and necessity that we modify the section 214 authorizations for Aureon and SDN to state: ''The mandatory use requirement does not apply to interexchange carriers delivering terminating traffic to a local exchange carrier engaged in access stimulation, as that term is defined in section 61.3(bbb) of the Commission's

rules.'' We find that this modification is an appropriate exercise of our authority under sections 4(i), 214 and 403 of the Act. Only those LECs engaged in access stimulation and IXCs delivering traffic to access-stimulating LECs will be affected by these changes to Aureon's and SDN's section 214 authorizations. Our methodology reflects the ''surgical approach'' that GVNW Consulting requested the Commission to use to address access stimulation. We remind Aureon and SDN that all other relevant section 214 obligations remain.

110. *Legal Authority.* In addition to our broad legal authority to adopt our rules applicable to access stimulation traffic, we have specific legal authority to modify the section 214 authorizations for Aureon and SDN to eliminate any mandatory use requirements that may be applicable to traffic bound for access-stimulating LECs. The Common Carrier Bureau (Bureau) adopted the original section 214 certificates for Aureon and SDN pursuant to section 214 of the Act. Indeed, whether section 214 of the Act was applicable to Aureon's application (which preceded SDN's application) was an issue in that proceeding. In the end, the Bureau agreed with Aureon's ''view that [Aureon] requires Section 214 authority prior to acquiring and operating any interstate lines of communications.'' Our modifications to the Aureon and SDN section 214 authorizations are an appropriate exercise of the Commission's authority under section 214, which gives the Commission authority to ''attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require,'' as well as our authority under sections 4 and 403 of the Act.

IV. Procedural Matters

111. *Paperwork Reduction Act Analysis.* This document contains modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198; *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

112. In this *Order,* we have assessed the effects of requiring an access-stimulating LEC to take financial responsibility for the delivery of traffic to its end office or the functional equivalent and find that the potential modifications required by our rules are both necessary and not overly burdensome. We do not believe there are many access-stimulating LECs operating today but note that of the small number of access-stimulating LECs in existence, many will be affected by this *Order.* We believe that access-stimulating LECs are typically smaller businesses and may employ less than 25 people. However, we find the benefits that will be realized by a decrease in the problematic consequences associated with access stimulation outweigh any burden associated with the changes (such as submitting a notice and making tariff or billing changes) required by this *Report and Order and Modification of Section 214 Authorizations.*

113. *Congressional Review Act.* 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 and Order and Modification of 214 Authorization* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

114. *Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980 (RFA), as amended, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to this *Report and Order and Modification to Section 214 Authorizations.*

V. Final Regulatory Flexibility Analysis

115. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the notice of proposed rulemaking for the access arbitrage proceeding (83 FR 30628, June 29, 2018). The Commission sought written public comments on the proposals in the *Access Arbitrage Notice,* including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Order

116. Although the Commission's earlier rules, adopted in the *USF/ICC Transformation Order,* made significant strides in reducing access stimulation, arbitragers have reacted to those reforms by revising their schemes to take advantage of access charges that remain in place for tandem switching and transport services. New forms of arbitrage now command significant resources and create significant costs, which together raise costs for consumers. In general, the intercarrier compensation regime allows access-stimulating local exchange carriers (LECs) to shift the costs of call termination to interexchange carriers (IXCs) and their customers via tandem switching and transport rates, creating perverse incentives for access-stimulating LECs to route network traffic inefficiently in a manner that maximizes those rates. IXCs are obligated to pay these charges but are left without any choice about how the traffic is routed, and pass those inflated costs along to their customers in turn, raising the price for consumers generally.

117. In this *Order,* to reduce the incentives to engage in the latest iteration of access stimulation, as well as to continue the reforms of the *USF/ICC Transformation Order,* we adopt rules making access-stimulating LECs, rather than IXCs, financially responsible for the tandem switching and transport service access charges associated with the delivery of traffic from the IXC to the access-stimulating LEC end office or its functional equivalent.

118. The rules adopted in this *Order* will thus require switched tandem and transport costs to be charged to the carrier that chooses the transport route. This change will encourage cost-efficient network routing and investment decisions, and remove the incentives that lead to inefficient interconnection and call routing requirements. We also modify the definition of access stimulation to include two additional traffic volume triggers. We add two higher ratios to capture access-stimulating LECs that do not have a revenue sharing agreement, which would have escaped our current definition.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

119. The Commission did not receive comments specifically addressing the rules and policies proposed in the IRFA. FailSafe Communications, Inc., a self-described ''end-user'' and small business ''disaster recovery'' service provider, articulated related concerns elsewhere. It requested an exemption from our rules ''for CABS access traffic associated with bona-fide SMB [small and medium-sized businesses] end users with less than 24 phone lines,'' arguing it and its ''Independent

Telephone Company'' and competitive LEC partners would be adversely affected by the *Order* and the requirements for access-stimulating LECs, but failing to propose a less burdensome alternative that would mitigate their concerns. FailSafe offers no evidence in support of its concern nor any explanation for why the exemption it proposes would resolve its concerns. We thus decline to grant such an exemption at this time, but note here, as we do in the *Order,* that affected rate-of-return LECs and competitive LECs may seek a waiver of our rules, particularly in compelling cases that may implicate the provision of emergency services.

C. Response to Comments by Chief Counsel for Advocacy of the Small Business Administration

120. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments 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 rules as a result of those comments.

121. The Chief Counsel did not file any comments in response to this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

122. 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 rules 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 Small Business Administration (SBA).

123. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry-specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses.

124. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of August 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

125. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2012 Census of Governments indicate that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37, 132 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category show that the majority of these governments have populations of less than 50,000. Based on this data we estimate that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''

126. *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 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.'' 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. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

127. *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 above. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. 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. The Commission therefore estimates that most providers of local exchange carrier service are small entities that may be affected by the rules adopted.

128. *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 above. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 3,117 firms operated in that year. Of this total, 3,083 operated with fewer than 1,000 employees. 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 (1,307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers. Of this total, an estimated 1,006 have 1,500 or fewer employees.

129. *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 above. Under that size standard, such a business is small if it has 1,500 or fewer employees. 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. Based on this data, the Commission concludes that the majority of 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. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. 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. Also, 72 carriers have reported that they are Other Local Service Providers. Of this total, 70 have 1,500 or fewer employees. 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.

130. We have included small incumbent LECs in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

131. *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 above. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. 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. According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of this total, an estimated 317 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by our proposed rules.

132. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. The Telecommunications Resellers 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 network operators (MVNOs) are included in this industry. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities.

133. *Toll Resellers.* The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers 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 network operators (MVNOs) are included in this industry. 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. 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. 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. Of this total, an estimated 857 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of toll resellers are small entities.

134. *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 above. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. 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. Thus, under this category and the associated small business size standard, the majority of 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. Of these, an estimated 279 have 1,500 or fewer employees. Consequently, the Commission estimates that most Other Toll Carriers are small entities that may be affected by rules adopted pursuant to the *Access Arbitrage Notice.*

135. *Prepaid Calling Card Providers.* The SBA has developed a definition for small businesses within the category of Telecommunications Resellers. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the Commission's Form 499 Filer Database, 500 companies reported that they were engaged in the provision of prepaid calling cards. The Commission does not have data regarding how many of these 500 companies have 1,500 or fewer employees. Consequently, the Commission estimates that there are 500 or fewer prepaid calling card providers that may be affected by the rules.

136. *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. 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, U.S. Census data for 2012 show that there

were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

137. The Commission's own data—available in its Universal Licensing System—indicate that, as of October 25, 2016, there are 280 Cellular licensees that may be affected by our actions in this document. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of 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, and Specialized Mobile Radio Telephony services. Of this total, an estimated 261 have 1,500 or fewer employees, and 152 have more than 1,500 employees. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

138. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions.

139. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to Commission data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Therefore, a little less than one third of these entities can be considered small.

140. *Cable 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. The SBA has established a size standard for this industry stating that a business in this industry is small if it has 1,500 or fewer employees. The 2012 Economic Census indicates that 367 firms were operational for that entire year. Of this total, 357 operated with less than 1,000 employees. Accordingly we conclude that a substantial majority of firms in this industry are small under the applicable SBA size standard.

141. *Cable Companies and Systems (Rate Regulation).* 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. Industry data indicate that there are currently 4,600 active cable systems in the United States. Of this total, all but eleven cable operators nationwide are small under the 400,000-subscriber size standard. In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,600 cable systems nationwide. Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records. Thus, under this standard as well, we estimate that most cable systems are small entities.

142. *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 percent 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.'' There are approximately 52,403,705 cable video subscribers in the United States today. 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. Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard. 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. Although it seems certain that some of these cable 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.

143. *All Other Telecommunications.* The ''All Other Telecommunications'' 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. 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. For this category, U.S. 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. Thus a majority of ''All Other Telecommunications'' firms potentially may be affected by our action can be considered small.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

144. *Recordkeeping and Reporting.* The rule revisions adopted in the *Order* include notification requirements for access-stimulating LECs, which may impact small entities. Those LECs engaged in access stimulation are required to notify affected intermediate access providers and affected IXCs of their status as access stimulators and of their acceptance of financial responsibility for the tandem and transport switched access charges IXCs used to bear. An access-stimulating LEC must also publicly file a record of its access-stimulating status and

acceptance of financial responsibility in the Commission's *Access Arbitrage* docket on the same day that it issues notice to IXC(s) and/or intermediate access provider(s).

145. Rule changes may also necessitate that affected carriers make various revisions to their billing systems. For example, intermediate access providers that serve access-stimulating LECs will now charge terminating tandem switched access rates and transport rates to the corresponding LECs, whereas IXCs that serve access-stimulating LECs will no longer be required to pay such charges. As intermediate access providers cease billing IXCs, and instead bill access-stimulating LECs, they will likely need to make corresponding adjustments to their billing systems.

146. This *Order* may also require access-stimulating LECs to file tariff revisions to remove any tariff provisions they have filed for terminating tandem switched access or terminating switched access transport charges. Although we decline to opine on whether this *Order* requires carriers to file further tariff revisions, affected carriers may nonetheless choose to file additional tariff revisions to add provisions allowing them to charge access-stimulating LECs, rather than IXCs, for the termination of traffic to the access-stimulating LEC. These revisions may necessitate some effort to revise the rates (and who pays them), including terminating tandem switching rates and transport rates. The requirement to remove related provisions, and the choice to make any additional revisions, would apply to all affected carriers, regardless of entity size. The adopted rule revisions will facilitate Commission and public access to the most accurate and up-to-date tariffs as well as lower rates paid by the public for the affected services.

147. Existing access-stimulating LECs, or LECs who later become access-stimulating LECs, will also face similar reporting and recordkeeping requirements should they later choose to cease access stimulation. These steps are virtually identical as the steps discussed above that are required or may be necessary when commencing access stimulation, including providing third-party notice, filing a notice with the Commission, potential billing system changes, removing tariff provisions, and potentially preparing and filing a revised tariff.

F. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

148. The RFA requires an agency to describe any significant alternatives that it has considered in developing 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 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.''

149. *Transition Period.* To minimize the impact of the changes affected carriers may need to make under this *Order,* we implement up to a 45 day transition period for the related recordkeeping and reporting steps. To give effect to the financial shift of responsibility, we require that access-stimulating LECs remove any existing tariff provisions for terminating tandem switching or terminating tandem switched transport access charges within the same period, *i.e.,* within 45 days of the effective date of the *Order* (or, for those carriers who later engage in access stimulation, within 45 days from the date it commences access stimulation). This will also allow time if parties choose to make additional changes to their operations as a result of our reforms to further reduce access stimulation. To ensure clarity and increase transparency, we require that access-stimulating LECs notify affected IXCs and intermediate access providers of their access-stimulating status and their acceptance of financial responsibility within 45 days of PRA approval (or, for a carrier who later engages in access stimulation, within 45 days from the date it commences access stimulation), and file a notice in the Commission's Access Arbitrage docket on the same date and to the same effect. The Commission announced the notice aspects of the transition period in the proposed rule in the *Access Arbitrage Notice,* and while several commenters voiced support, none cited any specific problems nor concerns associated with these notice requirements. These notice requirements for such carriers to self-identify will help parties conserve resources by limiting potential disputes between IXCs and intermediate access providers concerning whether the LEC to which traffic is bound is engaged in access stimulation. Such changes are also subject to the Paperwork Reduction Act approval process which allows for additional notice and comment on the burdens associated with the requirement. This process will occur after adoption of this *Order,* thus providing additional time for parties to make the changes necessary to comply with the newly adopted rules. Also, being mindful of the attendant costs of any reporting obligations, we do not require that carriers adhere to a specific notice format. Instead, we allow each responding carrier to prepare third-party notice and notice to the Commission in the manner they deem to be most cost-effective and least burdensome, provided the notice announces the carrier's access-stimulating status and acceptance of financial responsibility. Furthermore, by electing not to require carriers to fully withdraw and file entirely new tariffs and requiring only that they revise their tariffs to remove relevant provisions, we mitigate the filing burden on affected carriers.

150. We recognize that intermediate access providers may need to revise their billing systems to reflect the shift in financial responsibility and may also elect to file revised tariffs. Though we believe the potential billing system changes to be straightforward, to allow sufficient time for affected parties to make any adjustments, we also grant them the same period from the effective date for implementing such changes. Thus, affected intermediate access providers have 45 days from the effective date of this rule (or, with respect to those carriers who later engage in access stimulation, within 45 days from the date such carriers commence access stimulation) to implement any billing system changes or prepare any tariff revisions which they may see fit to file. The time granted by this period should help carriers make an orderly, less burdensome, transition.

151. These same considerations were taken into account for LECs that cease access stimulation, a change that carries concomitant reporting obligations and to which we apply associated transition periods for billing changes and/or for tariff revisions that, collectively, are virtually identical to those mentioned above.

152. In comments not identified as IRFA-related, centralized equal access (CEA) providers Aureon and SDN argued that the potential billing changes and tariff revisions that would arise from making LECs financially responsible constitute an undue burden that ''would render it financially infeasible for the CEA network to remain operational.'' Aureon's sole

support for this assertion is that this change would ''necessitate significant changes to the compensation arrangements for CEA service.'' We have considered these costs but are not persuaded that these costs are significant enough to rise to an undue burden on affected carriers. We believe these changes to be straightforward, particularly because the identities of the relevant parties will already be known to one another because of existing relationships between them, and because they have previously charged others for the same services. There is no reason to believe that these changes will be onerous and the record is bereft of evidence of material incremental costs of making the necessary changes to implement billing arrangements with subtending access-stimulating LECs. We find no further evidence in the record of financial difficulties that CEAs would experience from this switch. In addition, we revise the definition of access stimulation to apply only to LECs that serve end users. This definitional change will narrow the providers who will be deemed access stimulators by excluding CEA providers, as they do not serve end users. We also adopt two alternate triggers in the access stimulation definition, one for competitive LECs and one for rate-of-return LECs, which should further limit the applicability of these new rules to small providers.

153. *Report to Congress:* The Commission will send a copy of the *Order,* including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Order,* including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

VI. Ordering Clauses

154. Accordingly, *it is ordered* that, pursuant to sections 1, 2, 4(i), 4(j), 201–206, 218–220, 251, 252, 254, 256, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 201–206, 218–220, 251, 252, 254, 256, 303(r), 403 and § 1.1 of the Commission's rules, 47 CFR 1.1, this *Report and Order and Modification of Section 214 Authorizations is adopted.*

155. *It is further ordered,* pursuant to sections 4(i), 214, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 214, 403 and §§ 1.47(h), 63.01 and 64.1195 of the Commission's rules, 47 CFR 1.47(h), 63.10, 64.1195, that the section 214 authorizations held by Iowa Network Access Division and South Dakota Network, LLC, are modified such that the mandatory use requirement contained in the authorizations does not apply to interexchange carriers delivering terminating traffic to a local exchange carrier engaged in access stimulation. These modifications are effective 30 days after publication of this *Report and Order and Modification of Section 214 Authorizations* in the **Federal Register**.

156. *It is further ordered* that a copy of this *Order* shall be sent by U.S. mail to Iowa Network Access Division and South Dakota Network, LLC, at their last known addresses. In addition, this *Report and Order and Modification of Section 214 Authorizations* shall be available in the Commission's Office of the Secretary.

157. *It is further ordered* that the amendments of the Commission's rules *are adopted,* effective 30 days after publication in the **Federal Register**. Compliance with § 51.914(b) and (e), which contain new or modified information collection requirements that require review by OMB under the PRA, is delayed. The Commission directs the Wireline Competition Bureau to announce the compliance date for those information collections in a document published in the **Federal Register** after OMB approval, and directs the Wireline Competition Bureau to cause § 51.914 to be revised accordingly.

158. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Report and Order and Modification of Section 214 Authorizations,* including the Final Regulatory Flexibility Analysis, to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

159. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Report and Order and Modification of Section 214 Authorizations,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 51

Communications common carriers, Telecommunications.

47 CFR Parts 61 and 69

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 51, 61, and 69 as follows:

PART 51—INTERCONNECTION

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 47 U.S.C. 151–55, 201–05, 207–09, 218, 225–27, 251–52, 271, 332 unless otherwise noted.

■ 2. Amend § 51.903 by adding paragraphs (k), (l), and (m) to read as follows:

§ 51.903 Definitions.

* * * * *

(k) *Access Stimulation* has the same meaning as that term is defined in § 61.3(bbb) of this chapter.

(l) *Intermediate Access Provider* has the same meaning as that term is defined in § 61.3(ccc) of this chapter.

(m) *Interexchange Carrier* has the same meaning as that term is defined in § 61.3(ddd) of this chapter.

■ 3. Section 51.914 is added to read as follows:

§ 51.914 Additional provisions applicable to Access Stimulation traffic.

(a) Notwithstanding any other provision of this part, if a local exchange carrier is engaged in Access Stimulation, as defined in § 61.3(bbb) of this chapter, it shall, within 45 days of commencing Access Stimulation, or within 45 days of November 27, 2019, whichever is later:

(1) Not bill any Interexchange Carrier for terminating switched access tandem switching or terminating switched access transport charges for any traffic between such local exchange carrier's terminating end office or equivalent and the associated access tandem switch; and

(2) Shall designate, if needed, the Intermediate Access Provider(s) that will provide terminating switched access tandem switching and terminating switched access tandem transport services to the local exchange carrier engaged in access stimulation and that the local exchange carrier shall assume financial responsibility for any applicable Intermediate Access Provider's charges for such services for any traffic between such local exchange carrier's terminating end office or equivalent and the associated access tandem switch.

(b) Notwithstanding any other provision of this part, if a local exchange carrier is engaged in Access Stimulation, as defined in § 61.3(bbb) of this chapter, it shall, within 45 days of commencing Access Stimulation, or within 45 days of November 27, 2019, whichever is later, notify in writing the Commission, all Intermediate Access Providers that it subtends, and Interexchange Carriers with which it does business of the following:

(1) That it is a local exchange carrier engaged in Access Stimulation; and

(2) That it shall designate the Intermediate Access Provider(s) that will provide the terminating switched access tandem switching and terminating switched access tandem transport services to the local exchange carrier engaged in access stimulation and that it shall pay for those services as of that date.

(c) In the event that an Intermediate Access Provider receives notice under paragraph (b) of this section that it has been designated to provide terminating switched access tandem switching or terminating switched access tandem transport services to a local exchange carrier engaged in Access Stimulation and that local exchange carrier shall pay for such terminating access service from such Intermediate Access Provider, the Intermediate Access Provider shall not bill Interexchange Carriers for terminating switched access tandem switching or terminating switched access tandem transport service for traffic bound for such local exchange carrier but, instead, shall bill such local exchange carrier for such services.

(d) Notwithstanding paragraphs (a) and (b) of this section, any local exchange carrier that is not itself engaged in Access Stimulation, as that term is defined in § 61.3(bbb) of this chapter, but serves as an Intermediate Access Provider with respect to traffic bound for a local exchange carrier engaged in Access Stimulation, shall not itself be deemed a local exchange carrier engaged in Access Stimulation or be affected by paragraphs (a) and (b).

(e) Upon terminating its engagement in Access Stimulation, as defined in § 61.3(bbb) of this chapter, the local exchange carrier engaged in Access Stimulation shall provide concurrent, written notification to the Commission and any affected Intermediate Access Provider(s) and Interexchange Carrier(s) of such fact.

(f) Paragraphs (b) and (e) of this section contain new or modified information-collection and recordkeeping requirements. Compliance with these information-collection and recordkeeping requirements will not be required until after approval by the Office of Management and Budget. The Commission will publish a document in the **Federal Register** announcing that compliance date and revising this paragraph (f) accordingly.

■ 4. Amend § 51.917 by revising paragraph (c) as follows:

§ 51.917 Revenue recovery for Rate-of-Return Carriers.

* * * * *

(c) *Adjustment for Access Stimulation activity.* 2011 Rate-of-Return Carrier Base Period Revenue shall be adjusted to reflect the removal of any increases in revenue requirement or revenues resulting from Access Stimulation activity the Rate-of-Return Carrier engaged in during the relevant measuring period. A Rate-of-Return Carrier should make this adjustment for its initial July 1, 2012, tariff filing, but the adjustment may result from a subsequent Commission or court ruling.

* * * * *

PART 61—TARIFFS

■ 5. The authority citation for part 61 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 201–205, 403, unless otherwise noted.

■ 6. Amend § 61.3 by revising paragraph (bbb) and adding paragraphs (ccc) and (ddd) to read as follows:

§ 61.3 Definitions.

* * * * *

(bbb) *Access Stimulation.* (1) A Competitive Local Exchange Carrier serving end user(s) engages in Access Stimulation when it satisfies either paragraph (bbb)(1)(i) or (ii) of this section; and a rate-of-return local exchange carrier serving end user(s) engages in Access Stimulation when it satisfies either paragraph (bbb)(1)(i) or (iii) of this section.

(i) The rate-of-return local exchange carrier or a Competitive Local Exchange Carrier:

(A) Has an access revenue sharing agreement, whether express, implied, written or oral, that, over the course of the agreement, would directly or indirectly result in a net payment to the other party (including affiliates) to the agreement, in which payment by the rate-of-return local exchange carrier or Competitive Local Exchange Carrier is based on the billing or collection of access charges from interexchange carriers or wireless carriers. When determining whether there is a net payment under this part, all payments, discounts, credits, services, features, functions, and other items of value, regardless of form, provided by the rate-of-return local exchange carrier or Competitive Local Exchange Carrier to the other party to the agreement shall be taken into account; and

(B) Has either an interstate terminating-to-originating traffic ratio of at least 3:1 in a calendar month, or has had more than a 100 percent growth in interstate originating and/or terminating switched access minutes of use in a month compared to the same month in the preceding year.

(ii) A Competitive Local Exchange Carrier has an interstate terminating-to-originating traffic ratio of at least 6:1 in an end office in a calendar month.

(iii) A rate-of-return local exchange carrier has an interstate terminating-to-originating traffic ratio of at least 10:1 in an end office in a three calendar month period and has 500,000 minutes or more of interstate terminating minutes-of-use per month in the same end office in the same three calendar month period. These factors will be measured as an average over the three calendar month period.

(2) A Competitive Local Exchange Carrier will continue to be engaging in Access Stimulation until: For a carrier engaging in Access Stimulation as defined in paragraph (bbb)(1)(i) of this section, it terminates all revenue sharing agreements covered in paragraph (bbb)(1)(i) of this section and does not engage in Access Stimulation as defined in paragraph (bbb)(1)(ii) of this section; and for a carrier engaging in Access Stimulation as defined in paragraph (bbb)(1)(ii) of this section, its interstate terminating-to-originating traffic ratio falls below 6:1 for six consecutive months, and it does not engage in Access Stimulation as defined in paragraph (bbb)(1)(i) of this section.

(3) A rate-of-return local exchange carrier will continue to be engaging in Access Stimulation until: For a carrier engaging in Access Stimulation as defined in paragraph (bbb)(1)(i) of this section, it terminates all revenue sharing agreements covered in paragraph (bbb)(1)(i) of this section and does not engage in Access Stimulation as defined in paragraph (bbb)(1)(iii) of this section; and for a carrier engaging in Access Stimulation as defined in paragraph (bbb)(1)(iii) of this section, its interstate terminating-to-originating traffic ratio falls below 10:1 for six consecutive months and its monthly interstate terminating minutes-of-use in an end office falls below 500,000 for six consecutive months, and it does not engage in Access Stimulation as defined in paragraph (bbb)(1)(i) of this section.

(4) A local exchange carrier engaging in Access Stimulation is subject to

revised interstate switched access charge rules under § 61.26(g) (for Competitive Local Exchange Carriers) or § 61.38 and § 69.3(e)(12) of this chapter (for rate-of-return local exchange carriers).

(ccc) *Intermediate Access Provider.* The term means, for purposes of this part and §§ 69.3(e)(12)(iv) and 69.5(b) of this chapter, any entity that carries or processes traffic at any point between the final Interexchange Carrier in a call path and a local exchange carrier engaged in Access Stimulation, as defined in paragraph (bbb) of this section.

(ddd) *Interexchange Carrier.* The term means, for purposes of this part and §§ 69.3(e)(12)(iv) and 69.5(b) of this chapter, a retail or wholesale telecommunications carrier that uses the exchange access or information access services of another telecommunications carrier for the provision of telecommunications.

■ 7. Amend § 61.26 by adding paragraph (g)(3) to read as follows:

§ 61.26 Tariffing of competitive interstate switched exchange access services.

* * * * *

(g) * * *

(3) Notwithstanding any other provision of this part, if a CLEC is engaged in Access Stimulation, as defined in § 61.3(bbb), it shall:

(i) Within 45 days of commencing Access Stimulation, or within 45 days of November 27, 2019, whichever is later, file tariff revisions removing from its tariff terminating switched access tandem switching and terminating switched access tandem transport access charges assessable to an Interexchange Carrier for any traffic between the tandem and the local exchange carrier's terminating end office or equivalent; and

(ii) Within 45 days of commencing Access Stimulation, or within 45 days of November 27, 2019, whichever is later, the CLEC shall not file a tariffed rate that is assessable to an Interexchange Carrier for terminating switched access tandem switching or terminating switched access tandem transport access charges for any traffic between the tandem and the local exchange carrier's terminating end office or equivalent.

■ 8. Amend § 61.39 by revising paragraph (g) to read as follows:

§ 61.39 Optional supporting information to be submitted with letters of transmittal for Access Tariff filings by incumbent local exchange carriers serving 50,000 or fewer access lines in a given study area that are described as subset 3 carriers in § 69.602.

* * * * *

(g) *Engagement in Access Stimulation.* A local exchange carrier otherwise eligible to file a tariff pursuant to this section may not do so if it is engaging in Access Stimulation, as that term is defined in § 61.3(bbb). A carrier so engaged must file interstate access tariffs in accordance with § 61.38 and § 69.3(e)(12) of this chapter.

PART 69—ACCESS CHARGES

■ 9. The authority citation for part 69 continues to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, 403.

■ 10. Amend § 69.3 by adding paragraph (e)(12)(iv) and removing the authority citation at the end of the section to read as follows:

§ 69.3 Filing of access service tariffs.

* * * * *

(e) * * *

(12) * * *

(iv) Notwithstanding any other provision of this part, if a rate-of-return local exchange carrier is engaged in Access Stimulation, or a group of affiliated carriers in which at least one carrier is engaging in Access Stimulation, as defined in § 61.3(bbb) of this chapter, it shall:

(A) Within 45 days of commencing Access Stimulation, or within 45 days of November 27, 2019, whichever is later, file tariff revisions removing from its tariff terminating switched access tandem switching and terminating switched access tandem transport access charges assessable to an Interexchange Carrier for any traffic between the tandem and the local exchange carrier's terminating end office or equivalent; and

(B) Within 45 days of commencing Access Stimulation, or within 45 days of November 27, 2019, whichever is later, the local exchange carrier shall not file a tariffed rate for terminating switched access tandem switching or terminating switched access tandem transport access charges that is assessable to an Interexchange Carrier for any traffic between the tandem and the local exchange carrier's terminating end office or equivalent.

* * * * *

■ 11. Amend § 69.4 by adding paragraph (l) to read as follows:

§ 69.4 Charges to be filed.

* * * * *

(l) Notwithstanding paragraph (b)(5) of this section, a local exchange carrier engaged in Access Stimulation as defined in § 61.3(bbb) of this chapter or the Intermediate Access Provider it subtends may not bill an Interexchange Carrier as defined in § 61.3(bbb) of this chapter for terminating switched access tandem switching or terminating switched access tandem transport charges for any traffic between such local exchange carrier's terminating end office or equivalent and the associated access tandem switch.

■ 12. Amend § 69.5 by revising paragraph (b) and removing the authority citation at the end of the section to read as follows:

§ 69.5 Persons to be assessed.

* * * * *

(b) Carrier's carrier charges shall be computed and assessed upon all Interexchange Carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services, except that:

(1) Local exchange carriers may not assess a terminating switched access tandem switching or terminating switched access tandem transport charge described in § 69.4(b)(5) on Interexchange Carriers when the terminating traffic is destined for a local exchange carrier engaged in Access Stimulation, as that term is defined in § 61.3(bbb) of this chapter consistent with the provisions of § 61.26(g)(3) of this chapter and § 69.3(e)(12)(iv).

(2) Intermediate Access Providers may assess a terminating switched access tandem switching or terminating switched access tandem transport charge described in § 69.4(b)(5) on local exchange carriers when the terminating traffic is destined for a local exchange carrier engaged in Access Stimulation, as that term is defined in § 61.3(bbb) of this chapter consistent with the provisions of § 61.26(g)(3) of this chapter and § 69.3(e)(12)(iv).

* * * * *

[FR Doc. 2019–22447 Filed 10–25–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

RIN 0648–XG925

Pacific Island Pelagic Fisheries; 2019 U.S. Territorial Longline Bigeye Tuna Catch Limits for American Samoa

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Announcement of a valid specified fishing agreement.

SUMMARY: NMFS announces a valid specified fishing agreement that allocates up to 1,000 metric tons (t) of the 2019 bigeye tuna limit for the Territory of American Samoa to U.S. longline fishing vessels. The agreement supports the long-term sustainability of fishery resources of the U.S. Pacific Islands, and fisheries development in American Samoa.

DATES: The specified fishing agreement was valid as of September 15, 2019. The start date for attributing 2019 bigeye tuna catch to American Samoa is October 28, 2019.

ADDRESSES: The Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (Pelagic FEP) describes specified fishing agreements and is available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, fax 808–522–8226, or *http://www.wpcouncil.org.*

NMFS prepared environmental analyses that describe the potential impacts on the human environment that would result from the action. The analyses, identified by NOAA–NMFS–2019–0028, are available from *https://www.regulations.gov/docket?D=NOAA-NMFS-2019-0028,* or from Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, NMFS PIRO Sustainable Fisheries, 808–725–5176.

SUPPLEMENTARY INFORMATION: In a final rule published on July 18, 2019, NMFS specified a 2019 limit of 2,000 t of longline-caught bigeye tuna for the U.S. Pacific Island territories of American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI) (84 FR 34321). NMFS allows each territory to allocate up to 1,000 t of the 2,000 t limit to U.S. longline fishing vessels identified in a valid specified fishing agreement.

On August 15, 2019, NMFS received from the Council a specified fishing agreement between the Territory of American Samoa and the Hawaii Longline Association (HLA). The Council's Executive Director advised that the specified fishing agreement was consistent with the criteria set forth in 50 CFR 665.819(c)(1). On September 15, 2019, NMFS reviewed the agreement and determined that it is consistent with the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific, the Magnuson-Stevens Fishery Conservation and Management Act, implementing regulations, and other applicable laws. However, because at that time, vessels identified in a previous agreement between the CNMI and HLA only attained about a third of the 1,000 t CNMI allocation limit, NMFS decided to await a more accurate projection to determine the date for attributing catch to the 2019 American Samoa limit. Based on logbook data submitted by U.S. longline vessels operating under the CNMI/HLA agreement, NMFS now forecasts the CNMI allocation limit of 1,000 t will be reached by November 4, 2019.

In accordance with 50 CFR 300.224(d) and 50 CFR 665.819(c)(9), vessels in the agreement may retain and land bigeye tuna in the western and central Pacific Ocean under the American Samoa attribution limit. NMFS will begin attributing bigeye tuna caught by vessels in the agreement to American Samoa starting October 28, 2019. If NMFS determines that the fishery will reach the 1,000 t allocation limit, we will restrict the retention of bigeye tuna caught by vessels in the agreement, unless the vessels are included in a subsequent specified fishing agreement with another U.S. territory.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 23, 2019.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019–23470 Filed 10–25–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 180713633–9174–02]

RIN 0648–XY049

Fisheries of the Exclusive Economic Zone Off Alaska; Several Groundfish Species 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; apportionment of reserves; request for comments.

SUMMARY: NMFS apportions amounts of the non-specified reserve, to the initial total allowable catch (ITAC) of Bering Sea (BS) Pacific ocean perch, Bering Sea and Aleutian Islands (BSAI) Alaska plaice, and BSAI Kamchatka flounder; and to the to the total allowable catch (TAC) of BSAI arrowtooth flounder, BSAI northern rockfish, BSAI sharks, and Bering Sea and Eastern Aleutian Islands (BS/EAI) blackspotted/rougheye rockfish. This action is necessary to allow the fisheries to continue operating. It is intended to promote the goals and objectives of the fishery management plan for the BSAI management area.

DATES: Effective October 23, 2019, through 2400 hrs, Alaska local time, December 31, 2019. Comments must be received at the following address no later than 4:30 p.m., Alaska local time, November 7, 2019.

ADDRESSES: Submit your comments, identified by docket number NOAA–NMFS–2018–0089, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *https://www.regulations.gov/docket?D=NOAA-NMFS-2018-0089,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will post the comments 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 is publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 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 ITAC of BS Pacific ocean perch was established as 12,474 mt, the 2019 ITAC of BSAI Alaska plaice was established as 15,300 mt, the 2019 ITAC of BSAI Kamchatka flounder was established as 4,250 mt, the 2019 TAC of BSAI arrowtooth flounder was established as 9,000 mt, the 2019 TAC of BSAI northern rockfish was established as 8,525 mt, the 2019 TAC of BSAI sharks was established as 125 mt, and the 2019 TAC of BS/EAI blackspotted/rougheye rockfish was established as 75 mt by the final 2019 and 2020 harvest specifications for groundfish of the BSAI (84 FR 9000, March 13, 2019) and reserve release (84 FR 49678, September 23, 2019). In accordance with § 679.20(a)(3) the Regional Administrator, Alaska Region, NMFS, has reviewed the most current available data and finds that the ITACs and TACS for BS Pacific ocean perch, and BSAI Alaska plaice, BSAI arrowtooth flounder, BSAI Kamchatka flounder, BSAI northern rockfish, BSAI sharks, and BS/EAI blackspotted/rougheye rockfish need to be supplemented from the non-specified reserve to promote efficiency in the utilization of fishery resources in the BSAI and allow fishing operations to continue.

Therefore, in accordance with § 679.20(b)(3), NMFS apportions from the non-specified reserve of groundfish to ITACs and TACs in the BSAI management area as follows: 2,201 mt to BS Pacific ocean perch, 1,000 mt to BSAI Alaska plaice, 1,200 mt to BSAI arrowtooth flounder, 300 mt to BSAI Kamchatka flounder, 600 mt to BSAI northern rockfish, 20 mt to BSAI sharks, and 20 mt to BS/EAI blackspotted/rougheye rockfish. These apportionments are consistent with § 679.20(b)(1)(i) and do not result in overfishing of any target species because the revised ITACs and TACs are equal to or less than the specifications of the acceptable biological catch in the final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019).

The harvest specification for the 2019 ITACs and TACs included in the harvest specifications for groundfish in the BSAI are revised as follows: 14,675 mt for BS Pacific ocean perch, 16,300 mt for BSAI Alaska plaice, 10,200 mt for BSAI arrowtooth flounder, 4,550 mt for BSAI Kamchatka flounder, 9,125 mt for BSAI northern rockfish, 145 mt for BSAI sharks, and 95 mt for BS/EAI blackspotted/rougheye rockfish.

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) and § 679.20(b)(3)(iii)(A) as such a 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 apportionment of the non-specified reserves of groundfish to the BS Pacific ocean perch, the BSAI Alaska plaice, the BSAI arrowtooth flounder, the BSAI Kamchakta flounder, the BSAI northern rockfish, the BSAI sharks, and the BS/EAI blackspotted/rougheye rockfish ITACs and TACs. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notification providing time for public comment because the most recent, relevant data only became available as of October 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.

Under § 679.20(b)(3)(iii), interested persons are invited to submit written comments on this action (see **ADDRESSES**) until November 7, 2019.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 23, 2019.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019–23469 Filed 10–23–19; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 84, No. 208
Monday, October 28, 2019

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0723; Product Identifier 2019–NM–147–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 and –1041 airplanes. This proposed AD was prompted by reports of sealant bead damage caused by rotation of the attachment fitting bearing assembly of a trimmable horizontal stabilizer (THS). This proposed AD would require repetitive detailed inspections (DET), and applicable corrective action(s) if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. In addition, as specified in the EASA AD, this proposed AD would provide an optional modification that would terminate the inspections. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by December 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 the material identified in this proposed AD that will be incorporated by reference (IBR), contact the EASA, 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–2019–0723.

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–2019–0723; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–0723; Product Identifier 2019–NM–147–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0206, dated August 20, 2019 (''EASA AD 2019–0206'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A350–941 and –1041 airplanes. EASA AD 2019–0206 superseded EASA AD 2018–0037, which was not mandated by an FAA AD.

This proposed AD was prompted by reports of sealant bead damage caused by rotation of the attachment fitting bearing assembly of a THS. The FAA is proposing this AD to address possible water ingress due to sealant bead damage, which could result in corrosion damage in the aluminum corner fitting. This condition, if not addressed, could lead to detachment and loss of the THS, possibly resulting in loss of control of the airplane and injury to persons on the ground. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0206 describes procedures for repetitive DET for damage of the fillet sealant and corrosion on aluminum in the lower and upper corner fittings and bearing assembly attachment interface at frame (FR) 102, left-hand and right-hand sides. AD 2019–0206 also describes procedures for an optional modification (application of new corrosion protection in the THS upper and lower attachment fitting bearing assembly) that would eliminate the need for the repetitive inspections. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the agency evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2019–0206 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD. This proposed AD would also provide an optional modification that would terminate the repetitive inspections.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2019–0206 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2019–0206 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2019–0206 that is required for compliance with EASA AD 2019–0206 will be available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0723 after the FAA final rule is published.

Costs of Compliance

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
30 work-hours × $85 per hour = $2,550	$0	$2,550	$28,050

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

ESTIMATED COSTS OF OPTIONAL ACTIONS

Labor cost	Parts cost	Cost per product
34 work-hours × $85 per hour = $2,890	$0	$2,890

The FAA has received no definitive data that would enable the agency to provide cost estimates for the repair specified in this proposed AD.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2019–0723; Product Identifier 2019–NM–147–AD.

(a) Comments Due Date

The FAA must receive comments by December 12, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and -1041 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2019–0206, dated August 20, 2019 (''EASA AD 2019–0206'').

(d) Subject

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

(e) Reason

This AD was prompted by reports of sealant bead damage caused by rotation of the attachment fitting bearing assembly of a trimmable horizontal stabilizer (THS). The FAA is issuing this AD to address possible water ingress due to sealant bead damage, which could result in corrosion damage in the aluminum corner fitting. This condition, if not addressed, could lead to detachment and loss of the THS, possibly resulting in loss of control of the airplane and injury to persons on the ground.

(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 2019–0206.

(h) Exceptions to EASA AD 2019–0206

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

(1) Where EASA AD 2019–0206 refers to February 21, 2018, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0206 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)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or 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 2019–0206 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

(1) For information about EASA AD 2019–0206, 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.* 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–2019–0723.

(2) For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218.

Issued in Des Moines, Washington, on October 18, 2019.

Michael Kaszycki,

Acting Manager, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–23393 Filed 10–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0727; Product Identifier 2019–NM–090–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A321–211, –212, –213, –231, and –232 airplanes. This proposed AD was prompted by a report of erroneous positioning of affected parts on the skin of the fuselage during the pre-drill phase, which could result in unwanted drill-starts. This proposed AD would require inspections for the presence of unwanted drill-starts on affected parts, and an inspection for cracks and corrective action if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

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

For the material identified in this proposed AD that will be incorporated by reference (IBR), contact the EASA, at

Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; 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 *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0727.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0727; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: 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:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–0727; Product Identifier 2019–NM–090–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

The FAA will post all comments, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact the agency receives about this NPRM.

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0098, dated May 3, 2019 (''EASA AD 2019–0098'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A321–211, –212, –213, –231, and –232 airplanes.

This proposed AD was prompted by a report of erroneous positioning of affected parts (internal upper doublers of the forward emergency exit doors (#2 position), left-hand and right-hand sides) on the skin of the fuselage during the pre-drill phase, which could result in unwanted drill-starts. The FAA is proposing this AD to address unwanted drill-starts, which could affect the fatigue properties of affected fuselage skin parts and possibly result in cracking of fuselage skin. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0098 describes procedures for inspections for the presence of unwanted drill-starts on affected parts (internal upper doublers of the forward emergency exit doors (#2 position), left-hand and right-hand sides), high frequency eddy current (HFEC) inspections for cracks, and corrective actions including repair of cracked parts. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2019–0098 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD. This proposed AD also would require sending the inspection results to Airbus.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. As a result, EASA AD 2019–0098 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2019–0098 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2019–0098 that is required for compliance with EASA AD 2019–0098 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0727 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 51 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 73 work-hours × $85 per hour = Up to $6,205.	$0	Up to $6,205	Up to $316,455

The FAA estimates that it would take about 1 work-hour per product to comply with the proposed reporting requirement in this proposed AD. The average labor rate is $85 per hour. Based on these figures, the FAA estimates the cost of reporting the inspection results on U.S. operators to be $4,335, or $85 per product.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
93 work-hours × $85 per hour = $7,905	$4,300	$12,205

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this NPRM is 2120–0056. The paperwork cost associated with this NPRM has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this NPRM is mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, FAA, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2019–0727; Product Identifier 2019–NM–090–AD.

(a) Comments Due Date

The FAA must receive comments by December 12, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A321–211, –212, –213, –231, and –232 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2019–0098, dated May 3, 2019 (''EASA AD 2019–0098'').

(d) Subject

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

(e) Reason

This AD was prompted by a report of erroneous positioning of affected parts on the skin of the fuselage during the pre-drill phase, which could result in unwanted drill-starts. The FAA is issuing this AD to address unwanted drill-starts, which could affect the fatigue properties of affected fuselage skin parts and possibly result in cracking of fuselage skin.

(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 2019–0098.

(h) Exceptions to EASA AD 2019–0098

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

(1) Where EASA AD 2019–0098 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0098 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)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or 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 2019–0098 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.

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

(j) Related Information

(1) For information about EASA AD 2019–0098, 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.* You may view this EASA AD at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. EASA AD 2019–0098 may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0727.

(2) 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.

Issued in Des Moines, Washington, on October 18, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–23430 Filed 10–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0717; Product Identifier 2019–NM–133–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A318 series airplanes; 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. This proposed AD was prompted by a report of cracking found on the frame of the right-hand side sliding window in the flight deck. This proposed AD would require repetitive inspections for cracking of the vertical stiffeners of the left- and right-hand sides of the window frames and corrective actions if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

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

For the material identified in this proposed AD that will be incorporated by reference (IBR), contact the EASA, at Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; 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 *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0717.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0717; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: 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:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed

under the **ADDRESSES** section. Include ''Docket No. FAA–2019–0717; Product Identifier 2019–NM–133–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

The FAA will post all comments, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact the agency receives about this NPRM.

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0173, dated July 18, 2019, (''EASA AD 2019–0173'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –215, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. Model A320–215 airplanes are not on the U.S. Register; this AD therefore does not include those airplanes in the applicability.

This proposed AD was prompted by a report of cracking found on the frame of the right-hand side sliding window in the flight deck. The FAA is issuing this AD to address cracking of the vertical stiffeners of the left- and right-hand sides of the window frames, which could affect the structural integrity of the airplane. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0173 describes procedures for repetitive inspections for cracking of the vertical stiffeners of the left- and right-hand sides of the window frame, and corrective actions if necessary. Corrective actions include modification, rework and repair.

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

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, The FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2019–0173 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD. This proposed AD also would require sending the inspection results to Airbus.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2019–0173 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2019–0173 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2019–0173 that is required for compliance with EASA AD 2019–0173 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0717 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 988 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS *

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
11 work-hours × $85 per hour = $935	$0	$935	$923,780 per inspection cycle.

* Table does not include estimated costs for reporting.

The FAA estimates that it would take about 1 work-hour per product to comply with the proposed reporting requirement in this proposed AD. The average labor rate is $85 per hour. Based on these figures, The FAA estimates the cost of reporting the inspection results on U.S. operators to be $83,980, or $85 per product.

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

ESTIMATED COSTS OF ON-CONDITION MODIFICATION

Labor cost	Parts cost	Cost per product
5 work-hours × $85 per hour = $425	*	* $425

* The FAA has received no definitive data that would enable the agency to provide parts cost estimates for the on-condition modification specified in this proposed AD.

The FAA has received no definitive data that would enable the agency to provide cost estimates for the other on-condition actions specified in this proposed AD.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this NPRM is 2120–0056. The paperwork cost associated with this NPRM has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this NPRM is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Forth Worth, TX 76177–1524.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2019–0717; Product Identifier 2019–NM–133–AD.

(a) Comments Due Date

The FAA must receive comments by December 12, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model airplanes specified in paragraphs (c)(1) through (4) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2019–0173, dated July 18, 2019 (''EASA AD 2019–0173'').

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by a report of cracking found on the frame of the right-hand side sliding window in the flight deck. The FAA is issuing this AD to address cracking of the vertical stiffeners of the left- and right-hand sides of the window frames, 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 2019–0173.

(h) Exceptions to EASA AD 2019–0173

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

(1) Where EASA AD 2019–0173 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0173 does not apply to this AD.

(3) Paragraph (4) of EASA AD 2019–0173 specifies to report inspection results to Airbus within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(3)(i) or (ii) of this AD.

(i) *If the inspection was done on or after the effective date of this AD:* Submit the report within 90 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 90 days after the effective date of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, 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 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 2019–0173 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.

(4) *Paperwork Reduction Act Burden Statement:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory as required by this AD; the nature and extent of confidentiality to be provided, if any. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

(j) Related Information

(1) For information about EASA AD 2019–0173, 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 EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this EASA AD at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. EASA AD 2019–0173 may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0717.

(2) 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.

Issued in Des Moines, Washington, on October 18, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–23429 Filed 10–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0722; Product Identifier 2019–NM–141–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus SAS Model A300 series airplanes. This proposed AD was prompted by a report that bleed and air conditioning systems were contaminated by hydraulic fluid, and an investigation revealed that hydraulic fluid contaminations caused the failure of check valves installed on the hydraulic reservoir air pressurization system. This proposed AD would require repetitive functional tests of the hydraulic reservoir air pressurization lines and repair or replacement, if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by December 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 the material identified in this proposed AD that will be incorporated by reference (IBR), contact the EASA, 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–2019–0722.

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–2019–0722; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–0722; Product Identifier 2019–NM–141–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0190, dated July 31, 2019 (''EASA AD 2019–0190'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A300 series airplanes.

This proposed AD was prompted by a report that bleed and air conditioning systems on an Airbus SAS Model A300–600 series airplane were contaminated by hydraulic fluid, and an investigation revealed that hydraulic fluid contaminations caused the failure of check valves installed on the hydraulic reservoir air pressurization system. The bleed and air conditioning systems on Model A300 series airplanes are similar in design to the model on which the event occurred. Therefore, Model A300 series airplanes are subject to the same unsafe condition. The FAA is proposing this AD to address this condition, which, if not detected and corrected, could lead to leakage of pressurization check valves, and, in case of pressurization line rupture, to loss of a hydraulic system, possibly resulting in reduced control of the airplane. See the MCAI for additional background information.

EASA also issued AD 2019–0188, dated July 31, 2019, to address the identified unsafe condition for Airbus SAS Model A300–600 series airplane. The FAA is considering further rulemaking to correspond with EASA 2019–0188, dated July 31, 2019.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0190 describes procedures for repetitive functional tests of the hydraulic reservoir air pressurization lines and repair or replacement, if necessary.

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

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the agency evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2019–0190 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD. This proposed AD also would require sending the inspection results to Airbus.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2019–0190 will be incorporated by reference in the FAA final rule. This proposed AD would therefore require compliance with EASA AD 2019–0190 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2019–0190 that is required for compliance with EASA AD 2019–0190 will be available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0722 after the FAA final rule is published.

Costs of Compliance

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

ESTIMATED COSTS FOR REQUIRED ACTIONS *

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × $85 per hour = $170	$0	$170	$170

* Table does not include estimated costs for reporting.

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

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
3 work-hours × $85 per hour = $255	$10,000	$10,255

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this NPRM is 2120–0056. The paperwork cost associated with this NPRM has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this NPRM is mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2019–0722; Product Identifier 2019–NM–141–AD.

(a) Comments Due Date

The FAA must receive comments by December 12, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes, certificated in any category, all manufacturer serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by a report that bleed and air conditioning systems were contaminated by hydraulic fluid, and an investigation revealed that hydraulic fluid contaminations caused the failure of check valves installed on the hydraulic reservoir air pressurization system. The FAA is issuing this AD to address this condition, which, if not detected and corrected, could lead to leakage of the pressurization check valves, and, in case of pressurization line rupture, to loss of a hydraulic system, possibly resulting in reduced control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2019–0190, dated July 31, 2019 (''EASA AD 2019–0190'').

(h) Exceptions to EASA AD 2019–0190

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

(1) Where EASA AD 2019–0190 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0190 does not apply to this AD.

(3) Paragraph (4) of EASA AD 2019–0190 specifies to report accomplishment of each test and any repair or replacement to Airbus within a certain compliance time. For this AD, report that action at the applicable time specified in paragraph (h)(3)(i) or (ii) of this AD.

(i) If the action was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the action was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, 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 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 2019–0190 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.

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

(j) Related Information

(1) For information about EASA AD 2019–0190, 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.* 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–2019–0722.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

Issued in Des Moines, Washington, on October 18, 2019.

Michael Kaszycki,

Acting Manager, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–23394 Filed 10–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0820]

RIN 1625–AA00

Safety Zone; Ohio River, Owensboro, KY

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing a temporary safety zone for all navigable waters of the Ohio River, extending the entire width of the river, from mile marker (MM) 756.4 to MM 757.4 in Owensboro, KY. This safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by a fireworks display. Entry into, transiting through or anchoring within this zone would be prohibited unless authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before November 27, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0820 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Petty Officer Riley Jackson, Coast Guard Sector Ohio Valley, Louisville, KY; telephone (502)779–5347 or email *Riley.S.Jackson@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Ohio Valley
DHS Department of Homeland Security
FR Federal Register
MM Mile Marker
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On September 9, 2019, the River View Coal, LLC notified the Coast Guard that it will be conducting a fireworks display from 10 p.m. through 11 p.m. on January 18, 2020, to celebrate the previous year. The fireworks are to be launched from a barge in the Ohio River, between mile marker (MM) 756.4 and MM 757.4 in Owensboro, KY. Hazards from firework displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the fireworks to be used in this display would be a safety concern for anyone in the fallout radius.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within the 1-mile stretch of the Ohio River before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 10 p.m. through 11 p.m. on January 18, 2020. The safety zone would cover the entire width of the Ohio River from Mile Marker (MM) 756.4 to MM 757.4 in Owensboro, KY. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 10 p.m. through 11 p.m. fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking.

Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the safety zone. The temporary safety zone would only be in effect for one hour and limit access to a one-mile stretch of the Ohio River. The Coast Guard expects minimum adverse impact to mariners. Also, mariners would be permitted to request authorization from the COTP or a designated representative to transit the temporary safety zone.

B. Impact on Small Entities

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting one hour that would prohibit entry within a 1-mile stretch of the Ohio River. Normally such actions are categorically excluded from further review under paragraph L(60a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *https://www.regulations.gov/privacyNotice.*

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

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 is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0820 to read as follows:

§ 165.T08–0820 Safety zone; Ohio River, Owensboro, KY.

(a) *Location.* All navigable waters of the Ohio River between mile marker (MM) 756.4 to MM 757.4 in Owensboro, KY.

(b) *Period of enforcement.* This section will be enforced from 10 p.m. through 11 p.m. on January 18, 2020.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative. Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM radio channel 16 or phone at 1–800–253–7465.

(2) Persons and vessels permitted to enter this safety zone must transit at the slowest safe speed and comply with all lawful directions issued by the COTP or a designated representative.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners and the Local Notice to Mariners of the enforcement period for the temporary safety zone as well as any changes in the planned schedule.

A.M. Beach,

Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.

[FR Doc. 2019–23479 Filed 10–25–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AQ69

Billing and Collection by VA for Medical Care and Services

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations concerning collection and recovery by VA for medical care and services provided to an individual for treatment of a nonservice-connected disability. Specifically, this rulemaking would revise the provisions of VA regulations that determine the charges VA will bill third-party payers for non-VA care provided at VA expense, would include a time limit for which third-party payers can request a refund, and would clarify that third-party payers cannot reduce or refuse payment because of the billing methodology used to determine the charge. These revisions would clarify VA billing practices, result in more equitable charges to third-party payers, and ensure that VA collects payments timely and effectively. Additionally, this rulemaking would make certain technical corrections to the existing regulations, and amend associated definitions.

DATES: Comments must be received by VA on or before December 27, 2019.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov*, by mail or hand-delivery to Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW, Room 1064, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll-free number.) Comments should indicate that they are submitted in response to ''RIN 2900–AQ69, Billing and Collection by VA for Medical Care and Services.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1064, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Joseph Duran, Director of Policy and Planning, Office of Community Care (10D), Ptarmigan at Cherry Creek Denver, CO 80209, *Joseph.Duran2@va.gov* or (303) 372–4629. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Under section 1729 of Title 38, United States Code (U.S.C.), VA has the right to recover or collect reasonable charges for medical care or services from a third party to the extent that the veteran or the provider of the care or services would be eligible to receive payment from the third party for: A nonservice-connected disability for which the veteran is entitled to care (or the payment of expenses of care) under a health plan contract; a nonservice-connected disability incurred incident to the veteran's employment and covered under a worker's compensation law or plan that provides reimbursement or indemnification for such care and services; or a nonservice-connected disability incurred as a result of a motor vehicle accident in a State that requires automobile accident reparations (no-fault) insurance. This proposed rule would revise two of VA's regulations (*i.e.,* sections 17.101 and 17.106 of title 38, Code of Federal Regulations (CFR)) that implement 38 U.S.C. 1729.

In this proposed rule, we would revise 38 CFR 17.101, which establishes the instances when VA will collect and recover for medical care and services and the methodology used to determine the reasonable charges VA can bill for medical care and services. In this rulemaking, we propose to amend the amount VA will bill a third party when the medical care was provided at a non-VA facility at VA expense. We also propose to make several technical amendments to 38 CFR 17.101, to correct clerical errors and update office and data source names. Additionally, we propose to add two new definitions and remove one current definition to be consistent with the proposed technical amendments.

In addition to revising § 17.101, this rulemaking would also revise § 17.106. Section 1729 of 38 U.S.C. authorizes VA

to collect the reasonable charges for medical care and services from a third-party payer and to compromise, settle, or waive a claim (such as a refund). Additionally, section 1729 prohibits any contract or other agreement operating to prevent recovery or collection by the United States.

Current 38 CFR 17.106 implements 38 U.S.C. 1729 by describing VA's rules for recovery and collection of reasonable charges from a third-party payer for medical care and services provided for a nonservice-connected disability in or through any VA facility to a veteran who is a beneficiary under a thirty-party's plan. This section also explains that a third-party payer may not, without consent of the U.S. Government, offset or reduce any payment due under 38 U.S.C. 1729 or part 17 of 38 CFR in the instance that the third-party payer considers itself due a refund; and requires that any request for a refund be submitted in writing. Section 17.106 describes those conditions under which a third-party payer may not reduce, offset, or request a refund for payments made pursuant to 38 U.S.C. 1729. In this rulemaking, we propose to amend 38 CFR 17.106 to clarify the timeframe for submitting a written request for a refund for claims under part 17 or 38 U.S.C. 1729, and would explain that VA would not provide a refund for any reason, to include if a retroactive service-connection determination is made more than 18 months after the date payment is made by the third-party payer. We also propose to add a new condition under which a third-party payer could not refuse or reduce their payment for a claim under section 1729.

Changes to 17.101

As explained in more detail below, we would amend current § 17.101 by adding and removing definitions, changing the amount VA will bill a third party when the medical care was provided at a non-VA facility at VA expense, and making several technical amendments.

§ 17.101(a)(5) Definitions

We would revise § 17.101(a)(5) which defines certain terms used throughout § 17.101. We would add two new definitions and remove a current definition. In proposed § 17.101(a)(5), we would remove the definition of ''MDR.'' MDR stands for Medical Data Research, which is defined as a medical charge database published by Ingenix, Inc. It is referred to throughout § 17.101, as it was a database used to calculate charges. However, it is no longer used, and has been replaced by FAIR Health. We would insert a definition for ''FAIR Health'' immediately following the definition of ''DRG,'' and define ''FAIR Health'' in § 17.101(a)(5) to mean any of the FAIR Health Charge Benchmarks products developed by FAIR Health. This would be consistent with changes we propose to make throughout 17.101 to replace ''MDR'' with ''FAIR Health.'' This is explained in more detail later in this rulemaking.

In proposed § 17.101(a)(5), we would insert a definition of ''MarketScan'' immediately following the definition of ''ICU.'' We would define ''MarketScan'' to mean the MarketScan Commercial Claims & Encounters Database developed by Truven Health Analytics LLC. MarketScan has replaced MedStat, which is referenced throughout § 17.101 as it is a database used for billing purposes. Since it has been replaced by MarketScan, we would define it in § 17.101(a)(5). As explained in more detail later this rulemaking, we also would replace all references to MedStat with MarketScan.

§ 17.101(a)(7)

Pursuant to 38 U.S.C. 1729, VA is authorized to collect reasonable charges in certain circumstances, but the statute does not define what reasonable charges are. In current 38 CFR 17.101, VA established the methodology it uses to determine what constitutes reasonable charges and directs when reasonable charges will be charged to third-party payers. Section 17.101 requires that VA charge the higher of the amount determined using the methodologies in this section (reasonable charges) or the amount VA actually paid to the provider for the care. We propose to amend § 17.101(a)(7) to bill third-party payers the reasonable charges rate that is determined using the methodology in § 17.101, as if the care was provided at a VA facility. In this regard, if an individual received surgery at a non-VA facility at VA expense, the charges billed to the individual's health insurance (or other third-party payer) would be the same as if the individual received the surgery at a VA facility.

The current practice of charging the higher of the amount determined using the methodologies in § 17.101 (reasonable charges) or the amount VA actually paid creates confusion in the field and additional administrative burdens when determining the appropriate amount to bill payers. Third-party payers have also indicated a preference for being charged using the same methodology regardless of whether the care was provided at a VA facility or at a non-VA facility at VA expense.

We believe that by removing the portion of the current regulation that requires VA to charge the higher of the two rates and, instead, requiring VA to bill the rate determined using the methodologies set forth in this section, it will provide greater clarity and uniformity in VA's billing practices. In this regard, requiring VA to charge the same rate regardless of whether the care was provided at a VA facility or a non-VA facility at VA expense will cut down on the administrative burden associated with determining the charges. Currently, the VA billing officials must first determine that the care was provided at a non-VA facility, then determine the rates based on two different methodologies. Finally, the billing official must determine which is higher and enter that cost into the billing system. Under the proposed rule, VA billing officials will merely determine one rate using the same methodology regardless of where the care was furnished.

Additionally, we find that it is equitable to charge the same rates regardless of the facility in which the individual sought treatment; the third-party payer should not be disadvantaged and required to pay higher charges because the individual sought care at a non-VA facility. Moreover, the proposed revision is beneficial to the third-party payer as there is no scenario in which the third-party payer would be charged more under the proposed rule than they are charged under the current rule. Specifically, if the higher charge is the charge determined according to this section, the third-party payer will still be charged the amount determined in this section. However, if the higher amount is the actual cost VA paid, the third-party payer will be able to pay the lower, reasonable charges rate that was determined using the methodologies in this section. We note that in the vast majority of cases, the reasonable rates are higher than that amount actually paid and we do not think that this would ultimately change the amount that we are charging and collecting. This is consistent with generally accepted billing practices in the industry, as there is typically one set of rates that all health care providers charge. However, some of the amount charged is written off and the amount the payer ends up paying is usually lower than the amount billed.

Technical Amendments to § 17.101

We propose to make several technical amendments to ensure the information contained in § 17.101 is accurate and reflects changes to VA's organizational structure, the names of companies and

data source references. VA has not updated the data sources and names since 2003, and there have been several changes to these since that time. See 68 FR 70714. However, in the annual publication of the data sources used to calculate charges, these changes have been reflected. See *https://www.va.gov/COMMUNITYCARE/revenue_ops/payer_rates.asp.* We now propose to update § 17.101 to reflect these changes.

Currently, § 17.101(a)(2) and (3) jointly explain that the data for calculating actual charge amounts based on methodologies in § 17.101, the specific editions of the data sources used to calculate these amounts, and the information on where these data sources may be obtained will either be published in a notice in the **Federal Register** or will be posted on the internet site of the Veterans Health Administration (VHA) Chief Business Office, currently at *http://www.va.gov/cbo,* under ''Charge Data.'' Since the promulgation of § 17.101, the name of the responsible office for billing and collection has changed from Chief Business Office to Office of Community Care. Relatedly, the website has changed from *http://www.va.gov/cbo* to *https://www.va.gov/COMMUNITYCARE.*

To ensure the correct VHA offices and website are referenced in § 17.101, we propose to replace all references in § 17.101(a)(2) and (a)(3) to ''Chief Business Office'' with ''Office of Community Care,'' and replace all references in § 17.101(a)(2) and (a)(3) to ''*http://www.va.gov/cbo,* under 'Charge Data' '' with ''*https://www.va.gov/COMMUNITYCARE,* under 'Payer Rates and Charges.''' The relevant information on the charges data is located under ''Payer Rates and Charges'' and we would update § 17.101(a)(2) and (3) to reflect that.

We would amend § 17.101 by replacing all references to ''Ingenix/St. Anthony's'' with ''Optum Essential.'' Ingenix/St. Anthony's was a data source used to calculate charges under § 17.101. This data source was used to calculate such charges as physician and other professional charges (except for anesthesia and certain dental services); pathology and laboratory charges; relative value units for durable medical equipment (DME), drugs, injectables, and other medical services, items, and supplies. This data source is referenced in § 17.101(f)(2)(ii); (i)(2)(ii); and (l)(2)(i)(A)–(B), (M). Optum Essential has replaced Ingenix/St. Anthony's, as Ingenix went out of business more than five years ago. We propose to revise § 17.101 to reference Optum Essential instead of Ingenix/St. Anthony's, and we would want the regulation to be consistent with this change to the data source.

In § 17.101, we propose to replace all references to ''MDR'' and add in its place ''FAIR Health'' since FAIR Health has replaced MDR. We would propose to make these changes throughout § 17.101. MDR stands for Medical Data Research, which was a medical charge database published by Ingenix, Inc. It is referred to throughout current § 17.101, as it was a database used to calculate charges, including outpatient facility charges; physician and other professional charges (except for certain dental services; professional charges for anesthesia services; pathology and laboratory charges; and charges for DME, drugs, injectables, and certain other medical services, items, and supplies. For example, it is referenced in current § 17.101(e)(3)(ii), (e)(4), (f)(2)(ii), (f)(3), (g)(3)(i), (i)(2)(i)–(ii), (i)(3), (l)(2)(iii), (l)(3), and (l)(5)(ii). However, Ingenix went out of business over five years ago, and FAIR Health became the successor company. MDR is thus no longer used and has been replaced by FAIR Health in calculating charges under § 17.101. We would update § 17.101 to reflect this change in the name. We propose to replace all references in § 17.101 to ''MedStat'' with ''MarketScan'' as the name of this data source has changed from MedStat to MarketScan. MedStat is referenced throughout § 17.101 as it is a database to calculate acute inpatient facility charges and outpatient facility charges. It is referenced in § 17.101(b)(2), (b)(3), and (e)(3)(ii). Since it has been replaced by MarketScan, we propose to replace all references to MedStat with MarketScan in § 17.101 to ensure this regulation reflects this change and the correct name of the data source.

Throughout § 17.101, we would replace all references to ''Milliman USA, Inc.'' and add in its place ''Milliman, Inc.'' since that is the correct name of the company which has changed since 2003. Milliman USA, Inc. is referenced in current § 17.101(e)(4), (f)(3), (g)(3)(i), (h)(3), (i)(3), (l)(3), and (l)(5)(iii). In § 17.101, Milliman USA, Inc. is referenced with regards to its various health cost guidelines and data sets. These guidelines and data sets have been used to calculate outpatient facility charges; physician and other professional charges (including anesthesia and dental services); and charges for DME, drugs, injectables, and other medical services, items, and supplies. Because the name has changed, we would update the regulation to accurately reflect the name of this company throughout § 17.101. We note that Milliman USA, Inc.'s Health Cost Guidelines fee survey which is referenced in current paragraphs (f)(3) and (i)(3) is no longer used, and we propose to remove those references to it in these paragraphs, as explained later in this rulemaking.

We propose to amend § 17.101 by replacing all references to ''percent Sample'' with ''Percent Sample'' as percent should be capitalized. ''Percent Sample'' is included in several paragraphs within § 17.101 (including but not limited to § 17.101(d)(2), (e)(3)(i) through (ii), and (g)(3)(i)) in reference to the Medicare Standard Analytical File. This Percent Sample is used to calculate partial hospitalization facility charges, outpatient facility charges, physician and other professional charges except for anesthesia services and certain dental services, observation care facility charges, and ambulance and other emergency transportation charges. We would update § 17.101 to ensure that references to Percent Sample are correctly capitalized.

We would amend § 17.101(e)(3)(i)(C) by replacing the reference to ''2.0'' with ''6.5'', and replacing the references to ''6.5'' with ''2.0''. This specifically relates to the minimum and maximum 80th percentile charge to Medicare Ambulatory Payment Classification payment amount ratios, which are used to calculate outpatient facility charges under § 17.101. This is a clerical error, as 6.5 should be 2.0 and 2.0 should be 6.5. We now propose to correct this error in proposed § 17.101(e)(3)(i)(C).

For ease of reference, the following chart explains these technical changes to § 17.101 as discussed in the preceding paragraphs:

Section	Propose to remove	Propose to add
17.101(a)	Chief Business Office	Office of Community Care
17.101(a)	*http://www.va.gov/cbo,* under "Charge Data."	*https://www.va.gov/COMMUNITYCARE,* under "Payer Rates and Charges."
17.101	Ingenix/St. Anthony's	Optum Essential.
17.101	MDR	FAIR Health.
17.101	MedStat	MarketScan.
17.101	Milliman USA, Inc	Milliman, Inc.
17.101	percent Sample	Percent Sample.
17.101(e)(3)(i)(C)	2.0	6.5.
17.101(e)(3)(i)(C)	6.5	2.0.

In addition to the changes proposed above, we would amend paragraph (f)(2)(ii) of § 17.101 by removing obsolete references. Section 17.101(f)(2)(ii) describes the methodology and data sources used to calculate physician and other professional charges except for anesthesia services and certain dental services. First, we would remove the language that states that for any remaining CPT/HCPCS codes, the nationwide 80th percentile billed charges are obtained, where statistically credible, from the Prevailing Healthcare Charges System nationwide commercial insurance database. We would remove this language from the paragraph as the Prevailing Healthcare Charges System nationwide commercial insurance database is a data source that no longer exists, and is no longer applicable or used in calculating these charges (*i.e.,* physician and other professional charges except for anesthesia services and certain dental services). There is no replacement so we would remove this language entirely from this paragraph.

Similarly, we would remove the word ''three'' in § 17.101(f)(2)(ii). In current paragraph (f)(2)(ii), we reference the number of databases used to determine the total RVUs for Current Procedural Terminology (CPT) and Healthcare Common Procedure Coding System (HCPCS) codes that do not have Medicare Relative Value Units (RVUs) and are not designated as unlisted procedures. These three data sources are the MDR database, the Part B component of the Medicare Standard Analytical File 5 Percent Sample, and Prevailing Healthcare Charges System nationwide commercial insurance database. Because we are proposing to remove reference to the Prevailing Healthcare Charges System nationwide commercial insurance database, as explained in the preceding paragraph, there will no longer be three data sources used in this determination.

For the same reasons, we would remove from the final sentence in this paragraph the word ''four'' with regard to the number of data sources used. The data sources used to make this determination under § 17.101(f)(2)(ii) may vary. Thus, we would not list each data source used and would also not identify the specific number of data sources used. We would include the data source information on *https://www.va.gov/COMMUNITYCARE* or in a **Federal Register** notice (referenced in proposed § 17.101(a)(3)) instead of publishing them in regulation. Therefore, the public will still be informed of the sources used as that information will continue to be located on our websites or in a notice in the **Federal Register**, and updated on an annual basis. As explained previously, we are also proposing to update the VA website to reflect the correct web address (*https://www.va.gov/COMMUNITYCARE*). We note that the most recent **Federal Register** notices containing this information were published on December 14, 2017 and September 19, 2018. See 82 FR 59213 and 83 FR 47412.

We would also remove the word ''untrended'' from § 17.101(f)(2)(ii). This relates to nationwide conversion factor for the corresponding CPT/HCPCS code group. However, this term should not have been included in the original regulation as it is not a word, and removing it is merely a technical change as its removal would have no impact on our practices. We would continue to use the nationwide conversion factor for the corresponding CPT/HCPCS code group.

We propose to revise paragraphs (f)(3) and (i)(3) of § 17.101, which reference the Milliman USA, Inc., Health Cost Guidelines fee survey in calculating such charges as physician and other professional charges except for anesthesia and certain dental services and pathology and laboratory charges, respectively. We would remove this language from paragraphs (f)(3) and (i)(3), as this data source no longer exists. We would not replace it with any specific data source, as the data source used can vary. As previously explained, the data sources will be available to the public at *https://www.va.gov/COMMUNITYCARE* or in a **Federal Register** notice (referenced in proposed § 17.101(a)(3)) instead of publishing them in regulation.

Current § 17.101(h) describes the methodology for calculating professional charges for dental services identified by HCPCS Level II codes. Paragraph (h)(2) specifically explains the three data sources used to determine the 80th percentile charges for each HCPCS dental code. The sources referenced in this paragraph include Prevailing Healthcare Charges System database, National Dental Advisory Service nationwide pricing index; and the Dental UCR Module of the Comprehensive Healthcare Payment System. The Prevailing Healthcare Charges System database no longer exists. We would thus revise § 17.101 (h)(2) to remove the reference to that data source. We would not replace it in paragraph (h)(2) with another database as that can vary. We propose to revise the first sentence of paragraph (h)(2) to state ''various independent data sources'' instead of ''three independent data sources'' to reflect the fact that the data sources used can vary. Because of this, we would not list every data source used in this paragraph. As previously mentioned, VA publishes the charges and data sources (including the specific editions of these data sources) used to calculate the charges either through a **Federal Register** notice or on *https://www.va.gov/COMMUNITYCARE* as referenced in proposed § 17.101(a)(3).

We would also revise the language in this same paragraph that references ''UCR Module of the Comprehensive Healthcare Payment System, a release from Ingenix from a nationwide database of dental charges'' and instead insert ''FAIR Health module'' as the

FAIR Health module replaced the UCR Module of the Comprehensive Healthcare Payment System. Ingenix, which was the original creator of this comprehensive health care payment system, went out of business over five years ago, and FAIR Health became the successor company. The FAIR Health module replaced the UCR Module of the Comprehensive Healthcare Payment System, and thus we would revise paragraph (h)(2) accordingly.

We would then amend paragraph (h)(2)(i), which explains the methodology used to determine the average charge for any particular HCPCS dental code. This is done by computing a preliminary mean average of the three charges for each code. We would revise § 17.101(h)(2)(i) by removing the language ''average'' in reference to ''preliminary mean'' in the first sentence to correctly state how the charges are calculated. The words ''average'' and ''mean'' are redundant as these two words have the same meaning. We use the preliminary mean and we would update the paragraph (h)(2)(i) to reflect this.

In that same sentence, we would also remove ''three'' and add ''available'' in reference to the charges for each code as the number of charges for each code can vary based on the number of sources used. This paragraph references three charges because three data sources are reflected in paragraph (h)(2). However, as mentioned previously, we are proposing to revise paragraph (h)(2) to reflect that one of these data sources (Prevailing Healthcare Charges System database) no longer exists, and the number of data sources used to calculate these charges under paragraph (h) can vary. Instead of listing the data sources and including the specific number of data sources, this information would continue to be made available to the public either through a **Federal Register** notice or on *https://www.va.gov/COMMUNITYCARE* as referenced in proposed § 17.101(a)(3).

In the second sentence in paragraph (h)(2)(i), we propose to remove the language ''by testing whether any charge differs from the preliminary mean charge by more than 50 percent of the preliminary mean charge. In such cases, the charge most distant from the preliminary mean is removed as an outlier, and the average charge is calculated as a mean of the two remaining charges.'' This language refers to how statistical outliers are identified and removed in calculating the average charge and is based on using three data sources. Because we propose to update § 17.101(h)(2) to eliminate the use of three data sources and because the number of data sources can vary, we would remove this language to correctly state how charges are calculated and allow for variability. Instead, this sentence would simply state that ''statistical outliers are identified and removed.'' There may not be more than two data sources used, and thus there may not be two remaining charges. This paragraph would be updated to reflect this potential reality.

The last sentence of paragraph (h)(2)(i) explains that in cases where none of the charges differ from the preliminary mean charge by more than 50 percent of the preliminary mean charge, the average charge is calculated as a mean of all three reported charges. As previously explained in the preceding paragraphs, we would no longer use three data sources and the number of data sources can vary. We propose to remove the language in this last sentence of paragraph (h)(2)(i), specifically ''differ from the preliminary mean charge by more than 50 percent of the preliminary mean charge'' and replace that with ''removed''. We would also remove ''three'' from the last sentence in this paragraph to correctly state how the charges are calculated and to reflect that the average charge is no longer based on three reported charges. Thus, the proposed revised sentence would explain that where none of the charges are removed, the average charge is calculated as a mean of all reported charges.

In calculating professional charges for dental services identified by HCPCS Level II codes, paragraph (h)(3) of § 17.101 describes how each geographic adjustment factor is determined using Milliman USA, Inc., Dental Health Cost Guidelines, and a normalized geographic adjustment factors computed from the Dental UCR Module of the Comprehensive Payment System compiled by Ingenix. FAIR Health module has replaced ''UCR Module of the Comprehensive Healthcare Payment System compiled by Ingenix.'' As previously mentioned, Ingenix was the original creator of this Dental UCR Module of the Comprehensive Payment System and went out of business over five years ago. FAIR Health became the successor company, and the FAIR Health module is used in place of the Dental UCR Module of the Comprehensive Payment System. Thus, we propose to remove the reference to this dental UCR module and replace it with ''FAIR Health module.''

We would revise § 17.101(i)(2)(ii) which describes the methodology and data sources used to calculate pathology and laboratory charges. Paragraph (i)(2)(ii) specifically describes how total RVUs for CPT/HCPCS codes that do not have Medicare-based RVUs are developed based on various charge data sources (including the MDR database, Part B component of the Medicare Standard Analytical File 5 Percent Sample, the Prevailing Healthcare Charges System nationwide commercial insurance database and Ingenix/St. Anthony's RBRVS). As explained previously in this rulemaking, we note that we propose to update the names of several of these databases (*i.e.,* from MDR to FAIR Health, and from Ingenix/St. Anthony's to Optum Essentials). We propose to remove the current language that explains that for any remaining CPT/HCPCS codes, the nationwide 80th percentile billed charges are obtained, where statistically credible, from the Prevailing Healthcare Charges System nationwide commercial insurance database. We would also remove the language that explains that for each of these CPT/HCPCS codes, nationwide total RVUs are obtained by taking the nationwide 80th percentile billed charges obtained using the preceding three databases and dividing by the untrended nationwide conversion factor determined pursuant to paragraphs (i)(3) and (i)(3)(i) of this section. We would remove these sentences since the Prevailing Healthcare Charges System nationwide commercial insurance database is no longer available and there is no replacement.

We would revise the remaining sentences in this same paragraph to state that for any remaining CPT/HCPCS codes that have not been assigned RVUs using the preceding data sources (*i.e.,* the FAIR Health database, Part B component of the Medicare Standard Analytical File 5 Percent Sample, the Optum Essentials RBRVS will be used in the calculation of nationwide total RVUs; and that the resulting nationwide total RVUs obtained using these data sources (*i.e.,* FAIR Health database and Part B component of the Medicare Standard Analytical File 5 Percent Sample, and the Optum Essentials) will be multiplied by the geographic area adjustment factors determined pursuant to paragraph (i)(2)(iv) of this section in order to obtain the area-specific total RVUs. We would make these changes to the last two sentences in the paragraph to accurately reflect the process for determining total RVUs for CPT/HCPCS codes that do not have Medicare-based RVUs. This is because the Prevailing Healthcare Charges System nationwide commercial insurance database is no longer available and there is no replacement for that database. We would also revise the final sentence to

reflect that we would use the data sources in this paragraph to determine RVUs. Because the data sources we use to make this determination under § 17.101(i)(2)(ii) may vary, we would not list each data source used and would also not identify the specific number of data sources used. Since the data sources used can vary, we would include the data source information on *https://www.va.gov/COMMUNITYCARE* or in a **Federal Register** notice (referenced in proposed § 17.101(a)(3)) instead of publishing them in regulation.

We would amend several paragraphs in § 17.101(l) to correctly state how the charges for DME, drugs, injectables, and other medical services, items, and supplies identified by HCPCS Level II codes are calculated. Paragraph (l)(3) explains how the 80th percentile charges for each applicable HCPCS code are extracted using three independent data sources: The MDR database; Medicare, as represented by the combined Part B and DME components of the Medicare Standard Analytical File 5 Percent Sample; and Milliman USA, Inc., Optimized HMO (Health Maintenance Organization) Data Sets. In paragraph (l)(3), we propose to remove ''three'' and ''Milliman USA, Inc., Optimized HMO (Health Maintenance Organization) Data Sets'' in the first sentence. We would make this change because the ''Milliman USA, Inc. Optimized HMO Data Sets'' no longer exists and there is no replacement. Thus, we now use two data sources instead of three. As explained previously in this rulemaking, we would update the reference to the MDR database to reflect that the FAIR Health database has replaced this database. MDR was a medical charge database published by Ingenix, Inc. However, it is no longer used, and has been replaced by the FAIR Health database. We would update § 17.101(l) to accurately reflect these changes.

We would also amend paragraph (l)(3)(ii) in § 17.101 to correctly state how the average 80th percentile trended charge for any particular HCPCS code is calculated. Currently, this paragraph explains that this average charge is calculated by computing a preliminary mean average of the three charges for each HCPCS code and explains how statistical outliers are identified and removed. Additionally, it explains that the average charge is calculated as a mean of three reported charges in cases where none of the charges differ from the preliminary mean charge by more than five times the preliminary mean charge, or less than 0.2 times the preliminary mean charge. We propose to revise this paragraph by removing from the first sentence ''average'' immediately following ''preliminary mean'', and replacing in the same sentence ''three'' with ''available.'' The words ''average'' and ''mean'' are repetitive and redundant, as these two words have meant the same to us in the context of this methodology, and we would thus remove the word ''average'' after ''preliminary mean.''

We would also remove ''three'' in the first sentence of this same paragraph and replace it with ''available.'' As explained previously, Milliman USA, Inc., Optimized HMO (Health Maintenance Organization) Data Sets no longer exists, and the number of data sets used under paragraph (l)(3) is two (FAIR Health database and the combined Part B and DME components of the Medicare Standard Analytical File 5 Percent Sample). Because of this, we would revise § 17.101(l)(3)(ii) to reflect available charges instead of three charges.

We propose to further revise the language in paragraph (l)(3)(ii) that describes how statistical outliers are identified and removed. The paragraph explains that the methodology used to identify and remove statistical outliers based on the charges from the three databases which is done by testing whether any charge differs from the preliminary mean charge by more than five times the preliminary mean charge, or by less than 0.2 times the preliminary mean charge. The remaining sentences in this paragraph further explain that the charge most distance from the preliminary mean is removed as an outlier, and that the average charge is calculated as a mean of the two remaining charges. The last sentence further states that the average charge is calculated as a mean of all three reported charges where none of the charges differ from the preliminary mean charge by more than five times the preliminary mean charge, or less than 0.2 times the preliminary mean charge. As explained previously, because we use two data sources now instead of three, this language on how we would determine the statistical outliers and the average charge is no longer accurate. There would no longer be two remaining charges in identifying and removing outliers. We would thus revise this paragraph to correctly state how charges are calculated. In addition to those changes we would make to paragraph (l)(3)(ii) as proposed in the preceding paragraphs, after the first sentence in this paragraph, we would state that ''statistical outliers are identified and removed.'' After this sentence, we would remove the remaining subsequent text of the paragraph and add a sentence to state that where none of the charges are removed, the average charge is calculated as a mean of all reported charges. This paragraph would be updated to reflect how average charges are determined under paragraph (l)(3) as we explained previously.

§ 17.106 VA Collection Rules; Third-Party Payers

As previously explained, section 1729 of 38 U.S.C. authorizes VA to collect the reasonable charges for medical care and services from a third-party payer and to compromise, settle, or waive a claim (such as a refund). Additionally, section 1729 prohibits any contract or other agreement operating to prevent recovery or collection by the United States. This is implemented in 38 CFR 17.106 as current § 17.106 authorizes VA to collect from third-party payers. Specifically, § 17.106(c)(4) directs that a third-party payer may not, without the consent of a U.S. Government official authorized to take action under 38 U.S.C. 1729 and this part, offset or reduce any payment due under 38 U.S.C. 1729 or this part on the grounds that the payer considers itself due a refund from a VA facility. A written request for a refund must be submitted and adjudicated separately from any other claims submitted to the third-party payer under 38 U.S.C. 1729 or this part.

Currently, third-party payers are requesting refunds many months and sometimes years after the original payment was submitted and processed by VA. This creates difficulty for VA billing staff and makes it increasingly more difficult to approximate the funding needed to provide the refunds. Therefore, in this rulemaking, we propose to revise § 17.106(c)(4) to add a time frame of 18 months from the time the payer makes their original payment to request a refund. We also propose to add language to clarify that if a request for a refund is not submitted within this 18-month time frame, VA will not provide a refund to third-party payers for a claim paid for any reason. VA believes that adding a timeframe of 18 months provides ample time for the third-party payer to request the refund and also provides VA with greater finality when determining the budget. We also believe that we are able to require such a timeframe for third-party payer requests for these refunds as we interpret the broad language in 38 U.S.C. 1729 to authorize us to do so. As proposed in 38 CFR 17.106(c)(4), if a third-party payer requests a refund outside of the 18-month time frame, we

would not provide a refund for a claim paid for any reason. As previously explained, we believe this is reasonable as 18 months is ample time to request a refund and would be consistent with our authority in 38 U.S.C. 1729. We note that if a retroactive service-connection determination is made more than 18 months after the date payment is made by the third-party payer, VA would not provide a refund to the third-party payer for a paid claim.

Section 1729(f) provides that no provision of any third-party payer's plan having the effect of excluding from coverage or limited payment for certain care if that care is provided in or through any VA facility shall operate to prevent collection by the United States. Pursuant to this authority, VA promulgated § 17.106(f) which describes the conditions under which a third-party payer may not reduce, offset, or request a refund for payments made to VA. Currently, paragraph (f)(2) contains seven such conditions, and we now propose to add an eighth condition. In proposed paragraph (f)(2)(viii), we would state that a provision in a third-party payer's plan that directs payment for care or services be refused or lessened because the billing is not presented in accordance with a specified methodology (such as a line item methodology) is not by itself a permissible ground for refusing or reducing third-party payment of the charges billed by VA. Most private sector hospitals in the United States perform itemized billing, meaning they bill for those ancillary services, room and board, and supplies provided to the patient and include charges for each individual item or service that was provided to the patient. VA does not use itemized billing when determining charges, and does not break down each item or service provided and include charges for such item or service. Instead, VA uses a per diem methodology, under which there are separate per diem charges for room and board and for all ancillary services. VA then sends the third-party payer the bill using the per diem methodology. However, as mentioned, this does not break down the charges by item or service, and third-party payers have raised issues with this methodology because they are unable to determine the charge for each individual item or service provided. Because VA's billing methodology does not conform to some third-party payers' line-item billing methodology, some third-party payers have refused to pay either the full charges or part of the charges for VA care or medical services. We believe revising § 17.106(f)(2) as proposed would be equitable to all third-party payers by applying the same standard to all third-party payers and would require all third-party payers to pay regardless of whether our billing methodologies are the same as their preferred method. In addition, upon request from the payer, in accordance with the instructions on the billing document, VA would provide the medical records that provided the basis for the billing. This is not described in the regulation, but is provided here to explain that we provide these medical records. Providing the medical records would ensure that the third-party payer would have an opportunity to review the billing document alongside the medical records to fully understand the nature of the charges.

Effect of Rulemaking

The Code of Federal Regulations, as proposed to be revised by this proposed rulemaking, would represent the exclusive legal authority on this subject. No contrary rules or procedures would be authorized. All VA guidance would be read to conform with this proposed rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

Paperwork Reduction Act

Although this proposed rule contains a provision constituting a collection of information, at 38 CFR 17.101, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), no proposed new or modified collections of information are associated with this rule. The information collection provision for § 17.101 is currently approved by the Office of Management and Budget (OMB) and has been assigned OMB control number 2900–0606.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. We have not proposed any new requirements that would have such an effect. The changes being made to these regulations are mostly technical in nature, and conform to existing statutory requirements and existing practices in the program. Therefore, pursuant to 5 U.S.C. 605(b), this amendment would be exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866.

VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm/,* by following the link for VA Regulations Published from FY2004 through FYTD. This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

Unfunded Mandates

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

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.008, Veterans Domiciliary Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.029—Purchase Care Program; 64.033—VA Supportive Services for Veteran Families Program; 64.034—VA Grants for Adaptive Sports Programs for Disabled Veterans and Disabled Members of the Armed Forces; 64.035—

Veterans Transportation Program; 64.039—CHAMPVA; 64.040—VHA Inpatient Medicine; 64.041—VHA Outpatient Specialty Care; 64.042—VHA Inpatient Surgery; 64.043—VHA Mental Health Residential; 64.044—VHA Home Care; 64.045—VHA Outpatient Ancillary Services; 64.046—VHA Inpatient Psychiatry; 64.047—VHA Primary Care; 64.048—VHA Mental Health clinics; 64.049—VHA Community Living Center; 64.050—VHA Diagnostic Care.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign Relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing home care, Philippines, Reporting and recordkeeping requirements, Scholarships and fellows, Travel, Transportation expenses, Veterans.

Signing Authority

The Secretary of Veterans Affairs approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on May 6, 2019, for publication.

Consuela Benjamin,

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

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 17 as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 is revised to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

* * * * *

Section 17.101 is also issued under 38 U.S.C. 101, 1701, 1705, 1710, 1721, 1722, 1729.

* * * * *

■ 2. Amend 17.101 by:

■ a. In paragraph (a)(5), removing the definition of ''MDR.''

■ b. In paragraph (a)(5), adding alphabetically the definitions of ''FAIR Health'' and ''MarketScan''.

■ c. Revising paragraphs (a)(7), (f)(2)(ii), (f)(3), (h)(2) introductory text, (h)(2)(i), (h)(2)(ii), (h)(3), (i)(2)(ii), (i)(3), (l)(3) introductory text, and (l)(3)(ii).

The additions and revisions read as follows:

§ 17.101 Collection or recovery by VA for medical care or services provided or furnished to a veteran for a nonservice-connected disability.

* * * * *

(a) * * *

(5) * * *

* * * * *

FAIR Health means any of the Fair Health Charge Benchmarks products developed by Fair Health.''

* * * * *

MarketScan means the MarketScan Commercial Claims & Encounters Database developed by Truven Health Analytics LLC.

* * * * *

(7) *Charges for medical care or services provided by non-VA providers at VA expense.* When medical care or services are furnished at the expense of the VA by non-VA providers, the charges billed for such care or services will be the charges determined according to this section.

* * * * *

(f) * * *

(2) * * *

(ii) *RVUs for CPT/HCPCS codes that do not have Medicare RVUs and are not designated as unlisted procedures.* For CPT/HCPCS codes that are not assigned RVUs in paragraphs (f)(2)(i) or (f)(2)(iii) of this section, total RVUs are developed based on various charge data sources. For these CPT/HCPCS codes, that nationwide 80th percentile billed charges are obtained, where statistically credible, from the FAIR Health database. For any remaining CPT/HCPCS codes, the nationwide 80th percentile billed charges are obtained, where statistically credible, from the Part B component of the Medicare Standard Analytical File 5 Percent Sample. For each of these CPT/HCPCS codes, nationwide total RVUs are obtained by taking the nationwide 80th percentile billed charges obtained using the preceding databases and dividing by the nationwide conversion factor for the corresponding CPT/HCPCS code group determined pursuant to paragraphs (f)(3) and (f)(3)(i) of this section. For any remaining CPT/HCPCS codes that have not been assigned RVUs using the preceding data sources, the nationwide total RVUs are calculated by summing the work expense and non-facility practice expense RVUs found in Optum Essential RBRVS. The resulting nationwide total RVUs obtained using these data sources are multiplied by the geographic area adjustment factors determined pursuant to paragraph (f)(2)(iv) of this section to obtain the area-specific total RVUs.

* * * * *

(3) *Geographically-adjusted 80th percentile conversion factors.* CPT/HCPCS codes are separated into the following 23 CPT/HCPCS code groups: Allergy immunotherapy, allergy testing, cardiovascular, chiropractor, consults, emergency room visits and observation care, hearing/speech exams, immunizations, inpatient visits, maternity/cesarean deliveries, maternity/non-deliveries, maternity/normal deliveries, miscellaneous medical, office/home/urgent care visits, outpatient psychiatry/alcohol and drug abuse, pathology, physical exams, physical medicine, radiology, surgery, therapeutic injections, vision exams, and well-baby exams. For each of the 23 CPT/HCPCS code groups, representative CPT/HCPCS code group; see paragraph (a)(3) of this section for Data Sources. The 80th percentile charge for each selected CPT/HCPCS code is obtained from the FAIR Health database. A nationwide conversion factor (a monetary amount) is calculated for each CPT/HCPCS code group as set forth in paragraph (f)(3)(i) of this section. The nationwide conversion factors for each of the 23 CPT/HCPCS code groups are trended forward to the effective time period for the charges, as set forth in paragraph (f)(3)(ii) of this section. The resulting amounts for each of the 23 groups are multiplied by geographic area adjustment factors determined pursuant to paragraph (f)(3)(iii) of this section, resulting in geographically-adjusted 80th percentile conversion factors for each geographic area for the 23 CPT/HCPCS code groups for the effective charge period.

* * * * *

(h) * * *

(2) *Nationwide 80th percentile charges by HCPCS code.* For each HCPCS dental code, 80th percentile charges are extracted from various independent data sources, including the National Dental Advisory Service nationwide pricing index and the Dental FAIR Health module (*see* paragraph (a)(3) of this section for Data Sources). Charges for each database are then trended forward to a common date, based on actual changes to the dental services component of the CPI–U. Charges for each HCPCS dental code from each data source are combined into

an average 80th percentile charge by means of the methodology set forth in paragraph (h)(2)(i) of this section. HCPCS dental codes designated as unlisted are assigned 80th percentile charges by means of the methodology set forth in paragraph (h)(2)(ii) of this section. Finally, the resulting amounts are each trended forward to the effective time period for the charges, as set forth in paragraph (h)(2)(iii) of this section. The results constitute the nationwide 80th percentile charge for each HCPCS dental code.

(i) *Averaging methodology.* The average charge for any particular HCPCS dental code is calculated by first computing a preliminary mean of the available charges for each code. Statistical outliers are identified and removed. In cases where none of the charges are removed, the average charge is calculated as a mean of all reported charges.

(ii) *Nationwide 80th percentile charges for HCPCS dental codes designated as unlisted procedures.* For HCPCS dental codes designated as unlisted procedures, 80th percentile charges are developed based on the weighted median 80th percentile charge of HCPCS dental codes within the series in which the unlisted procedure code occurs. A nationwide VA distribution of procedures and services is used for the purpose of computing the weighted median.

* * * * *

(3) *Geographic area adjustment factors.* A geographic adjustment factor (consisting of the ratio of the level of charges in a given geographic area *to* the nationwide level of charges) for each geographic area and dental class of service is obtained from Milliman Inc., Dental Health Cost Guidelines, a database of nationwide commercial insurance charges and relative costs; and a normalized geographic adjustment factor computed from the Dental FAIR Health module, as follows: Using local and nationwide average charges reported in the FAIR Health database, a local weighted average charge for each dental class of procedure codes is calculated using utilization frequencies from the Milliman Inc., Dental Health Cost Guidelines as weights (*see* paragraph (a)(3) of this section for Data Sources). Similarly, using nationwide average charge levels, a nationwide average charge by dental class of procedure codes is calculated. The normalized geographic adjustment factor for each dental class of procedure codes and for each geographic area is the ratio of the local average charge divided by the corresponding nationwide average charge. Finally, the geographic area adjustment factor is the arithmetic average of the corresponding factors from the data sources mentioned in the first sentence of this paragraph (h)(3).

* * * * *

(i) * * *

(2) * * *

(ii) *RVUs for CPT/HCPCS codes that do not have Medicare-based RVUs and are not designated as unlisted procedures.* For CPT/HCPCS codes that are not assigned RVUs in paragraphs (i)(2)(i) or (iii) of this section, total RVUs are developed based on various charge data sources. For these CPT/HCPCS codes, the nationwide 80th percentile billed charges are obtained, where statistically credible, from the FAIR Health database. For any remaining CPT/HCPCS codes, the nationwide 80th percentile billed charges are obtained, where statistically credible, from the Part B component of the Medicare Standard Analytical File 5 Percent Sample. For any remaining CPT/HCPCS codes that have not been assigned RVUs using the preceding data sources, the nationwide total RVUs are calculated by summing the work expense and non-facility practice expense RVUs found in Optum Essential RBRVS. The resulting nationwide total RVUs obtained using these data sources are multiplied by the geographic area adjustment factors determined pursuant to paragraph (i)(2)(iv) of this section to obtain the area-specific total RVUs.

* * * * *

(3) *Geographically-adjusted 80th percentile conversion factors.* Representative CPT/HCPCS codes are statistically selected and weighted so as to give a weighted average RVU comparable to the weighted average RVU of the entire pathology/laboratory CPT/HCPCS code group. The 80th percentile charge for each selected CPT/HCPCS code is obtained from the FAIR Health database. A nationwide conversion factor (a monetary amount) is calculated as set forth in paragraph (i)(3)(i) of this section. The nationwide conversion factor is trended forward to the effective time period for the charges, as set forth in paragraph (i)(3)(ii) of this section. The resulting amount is multiplied by a geographic area adjustment factor determined pursuant to paragraph (i)(3)(iv) of this section, resulting in the geographically-adjusted 80th percentile conversion factor for the effective charge period.

* * * * *

(l) * * *

(3) *Nationwide 80th percentile charges for HCPCS codes without RVUs.* For each applicable HCPCS code, 80th percentile charges are extracted from two independent data sources: the FAIR Health database and the combined Part B and DME components of the Medicare Standard Analytical File 5 Percent Sample. Charges from each database are then trended forward to the effective time period for the charges, as set forth in paragraph (l)(3)(i) of this section. Charges for each HCPCS code from each data source are combined into an average 80th percentile charge by means of the methodology set forth in paragraph (l)(3)(ii) of this section. The results constitute the nationwide 80th percentile charge for each applicable HCPCS code.

* * * * *

(ii) *Averaging methodology.* The average 80th percentile trended charge for any particular HCPCS code is calculated by first computing a preliminary mean of the available charges for each HCPCS code. Statistical outliers are identified and removed. In cases where none of the charges are removed, the average charge is calculated as a mean of all reported charges.

* * * * *

■ 3.

§ 17.101 [Amended]

In the table below, for each section indicated in the left column, remove the words indicated in the middle column from wherever it appears in the section, and add the words indicated in the right column.

Section	Remove	Add
17.101	Chief Business Office	Office of Community Care.
17.101	*http://www.va.gov/cbo,* under "Charge Data."	*https://www.va.gov/COMMUNITYCARE,* under "Payer Rates and Charges."
17.101	Ingenix/St. Anthony's	Optum Essential.
17.101	MDR	FAIR Health.
17.101	MedStat	MarketScan.
17.101	Milliman USA, Inc	Milliman, Inc.

Section	Remove	Add
17.101	percent Sample	Percent Sample.
17.101	2.0	6.5.
17.101	6.5	2.0.

■ 4. Amend § 17.106 by:
■ a. Revising paragraph (c)(4).
■ b. Adding new paragraph (f)(2)(viii).

The revisions and additions read as follows:

§ 17.106 VA collection rules; third-party payers.

* * * * *

(c) * * *

(4) A third-party payer may not, without the consent of a U.S. Government official authorized to take action under 38 U.S.C. 1729 and this part, offset or reduce any payment due under 38 U.S.C. 1729 or this part on the grounds that the payer considers itself due a refund from a VA facility. A written request for a refund must be submitted within 18 months from the original payment date and adjudicated separately from any other claims submitted to the third-party payer under 38 U.S.C. 1729 or this part. If third-party payers do not submit requests for a refund within this 18-month time frame, VA will not provide a refund to third-party payers for a paid claim for any reason.

* * * * *

(f) * * *

(2) * * *

(viii) A provision in a third-party payer's plan that directs payment for care or services be refused or lessened because the billing is not presented in accordance with a specified methodology (such as a line item methodology) is not by itself a permissible ground for refusing or reducing third-party payment.

* * * * *

[FR Doc. 2019–22972 Filed 10–25–19; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2019–0136; FRL–10001–36–OAR]

Renewable Fuel Standard Program: Standards for 2020 and Biomass-Based Diesel Volume for 2021, and Response to the Remand of the 2016 Standards; Supplemental Notice of Proposed Rulemaking

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In a July 29, 2019 notice of proposed rulemaking, Environmental Protection Agency (EPA) proposed percentage standards for four categories of renewable fuel that would apply to obligated parties in 2020 under the Renewable Fuel Standard. This action takes into consideration certain comments received in response to the proposed rule. Based on these comments and additional information, EPA is issuing a supplemental proposal and requests comment on adjustments to the percentage standards for 2020 that result from the amended definitions of two of the terms used to calculate the percentage standards. We are proposing to project the volume of gasoline and diesel that will be exempt in 2020 due to small refinery exemptions based on a three-year average of the relief recommended by the Department of Energy (DOE). From 2016–2018 the relief recommended by the DOE would have resulted in a reduction to the renewable volume obligation of approximately 770 million RINs per year. The amended definitions proposed in this rule would effectively increase the percentage standards that apply to non-exempt obligated parties to offset future small refinery exemptions and help ensure that the required volumes are met.

DATES:

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

Public Hearing: EPA will hold a public hearing will be held on October 30, 2019, at the location noted below under **ADDRESSES**. The hearing will begin at 9:00 a.m. and end when all parties present who wish to speak have had an opportunity to do so. Parties wishing to testify at the hearing should notify the contact person listed under **FOR FURTHER INFORMATION CONTACT** by October 24, 2019. Additional information regarding the hearing appears below under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: You may send your comments, identified by Docket ID No. EPA–HQ–OAR–2019–0136, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov* (our preferred method) Follow the online instructions for submitting comments.

• *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

• *Hand Delivery/Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets.*

Hearing: The hearing will be held at the following location: Ann Arbor Marriott Ypsilanti at Eagle Crest, 1275 S. Huron St., Ypsilanti, MI 48197 (telephone number (734) 487–2000). A complete set of documents related to the proposal will be available for public inspection through the Federal eRulemaking Portal: *http://www.regulations.gov,* Docket ID No. EPA–HQ–OAR–2019–0136. Documents can also be viewed at the EPA Docket Center, located at 1301 Constitution Avenue NW, Room 3334, Washington, DC between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Julia MacAllister, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214–4131; for questions regarding this proposed action, email address: *RFS-Rulemakings@epa.gov;* for information regarding the public hearing and to register for the public hearing, email address: *RFS-Hearing@epa.gov.*

SUPPLEMENTARY INFORMATION: Entities potentially affected by the July 29, 2019,

proposed rule,[1] should it become final, are those involved with the production, distribution, and sale of transportation fuels, including gasoline and diesel fuel or renewable fuels such as ethanol, biodiesel, renewable diesel, and biogas. Potentially regulated categories include:

Category	NAICS [1] codes	SIC [2] codes	Examples of potentially regulated entities
Industry	324110	2911	Petroleum Refineries.
Industry	325193	2869	Ethyl alcohol manufacturing.
Industry	325199	2869	Other basic organic chemical manufacturing.
Industry	424690	5169	Chemical and allied products merchant wholesalers.
Industry	424710	5171	Petroleum bulk stations and terminals.
Industry	424720	5172	Petroleum and petroleum products merchant wholesalers.
Industry	221210	4925	Manufactured gas production and distribution.
Industry	454319	5989	Other fuel dealers.

[1] North American Industry Classification System (NAICS).
[2] Standard Industrial Classification (SIC) system code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to engage in activities that may be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your entity would be affected by this action, you should carefully examine the applicability criteria in 40 CFR part 80. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Hearing: The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning the proposal (which can be found at *https://www.epa.gov/renewable-fuel-standard-program/regulations-and-volume-standards-under-renewable-fuel-standard*). EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. Written comments must be received by the last day of the comment period, as specified in this notice.

Outline

I. Overview
II. Consideration of Proposed Adjustments to the Percentage Standard Calculations for 2020
A. Proposed Changes to the Projected Volume of Gasoline and Diesel for Exempt Small Refineries
B. Projecting the Exempted Volume of Gasoline and Diesel in 2020
C. Example Calculation of Proposed Percentage Standards for 2020
III. Statutory and Executive Order Reviews
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I. Overview

On July 29, 2019, EPA proposed ''Renewable Fuel Standard Program: Standards for 2020 and Biomass-Based Diesel Volume for 2021, Response to the Remand of the 2016 Standards, and Other Changes'' (''the July 29 proposal''). We proposed reductions in the statutory volume targets for cellulosic biofuel, advanced biofuel, and total renewable fuel using the cellulosic waiver authority in Clean Air Act (CAA) section 211(o)(7)(D). We also proposed percentage standards that would apply to obligated parties in 2020 for each of the four categories of renewable fuel (cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel) based on the proposed volumes and a projection of the volume of gasoline and diesel used in the U.S. in 2020.[2]

In response to the July 29 proposal, a number of stakeholders provided comments on the proposed percentage standards for 2020.[3] Some of these parties requested that we change our interpretation of two terms used to calculate the percentage formula: The amount of gasoline projected to be produced by exempt small refineries and small refiners (collectively, ''exempt small refineries''), and the amount of diesel projected to be produced by exempt small refineries. Rather than interpreting these terms to refer to the projected production of gasoline and diesel produced by refineries that have been exempted from their 2020 RFS obligations at the time the 2020 annual rule is finalized, many commenters stated that EPA should instead project the volumes of gasoline and diesel that will be exempted for the 2020 compliance year and use these projected volumes in calculating the percentage standards for 2020. In the July 29 proposal, we informed the public that these issues were beyond the scope of that proposal.[4] On further consideration, we are issuing this supplemental proposal of a method to address these issues.

Since the July 29 proposal, EPA has granted small refinery exemptions (''SREs'') for 31 small refineries for the 2018 compliance year.[5] We believe these comments and the 2018 SREs are germane to our approach for calculating the percentage standards for 2020. In light of this additional information, and

[1] 84 FR 36762 (July 29, 2019).

[2] See 84 FR 36762 (July 29, 2019).

[3] See, *e.g.,* comments from the Renewable Fuels Association (Docket Item No. EPA–HQ–OAR–2019–0136–0281).

[4] See 84 FR 36797 and fn. 165 (July 29, 2019).

[5] EPA also denied SRE requests from 6 small refineries. Petitions from 3 parties were declared ineligible or withdrawn, and 2 petitions were pending at the time EPA issued this supplemental proposal. More information about the number of SREs granted and the volume of RINs not required to be retired as a result of those exemptions can be found at *https://www.epa.gov/fuels-registration-reporting-and-compliance-help/rfs-small-refinery-exemptions.*

in order to give all stakeholders an opportunity to consider potential changes to the calculation of the percentage standards, we are issuing this supplemental proposal. We are proposing to amend the definitions of ''GE_i'' and ''DE_i'' in the RFS percentage standard formula at 40 CFR 80.1405(c) to represent the projected volumes of exempt gasoline and diesel in the compliance year (in this case 2020), regardless of whether EPA has adjudicated exemption petitions by the time of the final rule establishing the percentage standards for that compliance year. These changes are intended to help ensure that the renewable fuel volumes established in the action that we take with regard to the July 29 proposal and this supplemental proposal (the ''final rule'') are achieved. We request additional comment on this proposed change. This action does not solicit comment on any other aspect of the formula at 40 CFR 80.1405(c) or the July 29 proposal, nor are we soliciting comment on increasing the required volume of renewable fuel to account for the reductions in the required renewable fuel volumes that resulted from SRE decisions issued prior to the 2020 compliance year.

II. Consideration of Proposed Adjustments to the Percentage Standard Calculations for 2020

In the July 29 proposal, we proposed percentage standards for each of the four categories of renewable fuel based on the volumes that resulted from the exercise of the cellulosic waiver authority and projections of the volume of gasoline and diesel used in the U.S. in 2020.[6] We received comments on that proposal suggesting that, in determining the percentage standards for 2020, we should project the volume of gasoline and diesel produced by small refineries that will be exempted from their renewable volume obligations in 2020.[7] In light of these comments and the recent SREs, we are proposing new definitions for two of the terms used in calculating the percentage standards for 2020 to account for the projected volume of gasoline and diesel produced by small refineries that will be exempted from their renewable volume obligations in 2020.

A. Proposed Changes to the Projected Volume of Gasoline and Diesel for Exempt Small Refineries

The renewable fuel standards are expressed as volume percentages and those volume percentages are used by each obligated party to determine their Renewable Volume Obligations (RVOs). These percentage standards are calculated by EPA using the volumes of renewable fuel established in the annual rules following any reductions made using the cellulosic waiver authority and/or the general waiver authority. The formulas used to calculate the percentage standards applicable to producers and importers of gasoline and diesel are provided in 40 CFR 80.1405(c). The formulas rely on estimates of the volumes of gasoline and diesel fuel, for both highway and nonroad uses, which are projected to be used in the year in which the standards will apply. The formula for the percentage standard calculation for total renewable fuel, including the definitions of the terms, is shown below. The formulas for the other three percentage standards follow the same format, with the numerator of the fraction replaced with the annual volume of cellulosic biofuel, biomass-based diesel, and advanced biofuel, respectively.

$$Std_{RF,i} = 100 \times \frac{RFV_{RF,i}}{(G_i - RG_i) + (GS_i - RGS_i) - GE_i + (D_i - RD_i) + (DS_i - RDS_i) - DE_i}$$

Where:

$Std_{RF,i}$ = The renewable fuel standard for year i, in percent.

$RFV_{RF,i}$ = Annual volume of renewable fuel required by 42 U.S.C. 7545(o)(2)(B) for year i, in gallons.

G_i = Amount of gasoline projected to be used in the 48 contiguous states and Hawaii, in year i, in gallons.

D_i = Amount of diesel projected to be used in the 48 contiguous states and Hawaii, in year i, in gallons.

RG_i = Amount of renewable fuel blended into gasoline that is projected to be consumed in the 48 contiguous states and Hawaii, in year i, in gallons.

RD_i = Amount of renewable fuel blended into diesel that is projected to be consumed in the 48 contiguous states and Hawaii, in year i, in gallons.

GS_i = Amount of gasoline projected to be used in Alaska or a U.S. territory, in year i, if the state or territory has opted-in or opts-in, in gallons.

RGS_i = Amount of renewable fuel blended into gasoline that is projected to be consumed in Alaska or a U.S. territory, in year i, if the state or territory opts-in, in gallons.

DS_i = Amount of diesel projected to be used in Alaska or a U.S. territory, in year i, if the state or territory has opted-in or opts-in, in gallons.

RDS_i = Amount of renewable fuel blended into diesel that is projected to be consumed in Alaska or a U.S. territory, in year i, if the state or territory opts-in, in gallons.

GE_i = The amount of gasoline projected to be produced by exempt small refineries and small refiners, in year i, in gallons in any year they are exempt per §§ 80.1441 and 80.1442.

DE_i = The amount of diesel fuel projected to be produced by exempt small refineries and small refiners in year i, in gallons, in any year they are exempt per §§ 80.1441 and 80.1442.

Historically, EPA has interpreted the terms referring to the amount of gasoline and diesel projected to be produced by exempt small refineries (terms GE_i and DE_i in the equation above) to refer to the amount of gasoline and diesel projected to be produced by small refineries that have already been granted exemptions from their obligations prior to issuing the final rule for the relevant compliance year.[8] As a result of this interpretation, any SREs granted after we issue the annual rule containing the percentage standards for that year effectively reduces the required volume of renewable fuel for that year. For example, in August 2019 we granted 31 SREs for the 2018 compliance year after the percentage standards for 2018 had been established.[9] These SREs reduced the obligated volume of gasoline and diesel for 2018 by 13.42 billion gallons, effectively reducing the required volume of total renewable fuel for 2018 by 1.43 billion RINs.

In comments on the July 29 proposal, many commenters requested that EPA adopt a different interpretation of the terms for the amount of gasoline and diesel projected to be produced by exempt small refineries in the existing

[6] See Section VIII of the July 29 proposal for more detail on the proposed percentage standard calculations.

[7] See, *e.g.,* comments from the Renewable Fuels Association (Docket Item No. EPA–HQ–OAR–2019–0136–0281).

[8] *See, e.g.,* 84 FR 36797 (July 29, 2019).

[9] The percentage standards for 2018 were established in December 2017 (82 FR 58486, December 12, 2017).

percentage standard formula.[10] Many commenters requested that these terms should refer to a projection of the exempted volume of gasoline and diesel produced by small refineries, regardless of whether EPA had already adjudicated such exemption petitions by the time of the final rule. These commenters argued that this interpretation of the regulations is reasonable and better implements the statutory requirement that EPA must ''ensure'' the renewable fuel volumes are met. Some commenters suggested that adjusting the percentage standards formula is more important now than in earlier years of the program as we have recently granted exemptions for more significant volumes of gasoline and diesel, resulting in applicable volumes that are not being met at the time of compliance.[11]

The comments described above raise issues similar to those raised by a pending petition for administrative reconsideration.[12] That petition, filed by parties who also commented on the July 29 proposal, also asked EPA to reconsider our approach to accounting for exempted volumes through the formula at 40 CFR 80.1405(c). In response to this petition, EPA is undertaking a process to reconsider this issue; however, we are doing so under our inherent authority to revise or amend a rulemaking.[13]

We are proposing to change the definitions of the two terms in the percentage standard formula at 40 CFR 80.1405(c), GE_i and DE_i, to represent a projection of the exempted volume of gasoline and diesel, regardless of whether we have adjudicated exemptions for that year by the time of the final rule establishing the percentage standards for the four renewable fuel types. We propose that the term ''GE_i'', representing the volume of exempt gasoline, be defined as ''the total amount of gasoline projected to be exempt in year i, in gallons, per §§ 80.1441 and 80.1442.'' We similarly propose that the term ''DE_i'', representing the volume of exempt diesel, be defined as ''the total amount of diesel projected to be exempt in year i, in gallons, per §§ 80.1441 and 80.1442.''

While the statute does not specifically require EPA to redistribute exempted volumes in this manner, we believe that this is a reasonable interpretation of our authority pursuant to the statute under *Chevron* v. *NRDC,*[14] especially in light of our authority to ''ensure'' that the renewable fuel volumes are met.[15] We also acknowledge that this supplemental proposal, if finalized, would reflect a change in policy direction as described in *FCC* v. *Fox.*[16]

We believe the newly proposed definitions are a reasonable measure to appropriately account for volumes that may become exempted after the promulgation of the final rule establishing the percentage standards and furthers Congressional intent to ''ensure'' the renewable fuel volumes are met. In other words, should we grant SREs without accounting for them in the percentage formula, those exemptions would effectively reduce the volumes of renewable fuel required by the RFS program, potentially impacting the volume of renewable fuel used in the U.S. By contrast, were we to adopt this proposed change to the percentage standards for 2020, the percentage standard for each category of renewable fuel would increase (see Section II.C for example calculations). These higher percentage standards would have the effect of ensuring that the required volumes of renewable fuel are met when small refineries are granted exemptions from their 2020 obligations, provided EPA's projection of the amount of gasoline and diesel produced by exempt small refineries in 2020 is accurate. We acknowledge the uncertainty in the projection, a topic we discuss further in the next section.

We also believe that accounting in the percentage formula for a projection of volumes that would be exempted after the final rule is particularly appropriate where those volume are projected to constitute a significant portion of the total volume of obligated fuel as established in the final rule. This has occurred in recent years but did not occur in the first years of the program when we first established the regulatory definitions and interpretations.

We solicit comment on other formulations of these definitions in order to accurately describe our intent that these terms represent a projection of the volume of gasoline and diesel produced by exempt small refineries, regardless of whether EPA had already adjudicated those exemptions by the time of the final rule.

B. Projecting the Exempted Volume of Gasoline and Diesel in 2020

Adoption of the proposed revised definitions of the terms referring to the amount of gasoline and diesel produced by exempt small refineries, as discussed in Section II.A, would require that we determine how to project the exempted volumes of these fuels in 2020. Although subject to uncertainty, this projection would affect the percentage standards and thus the actual volume of renewable fuel required to be used in 2020. If we over-project the volume of gasoline and diesel produced by exempt small refineries in 2020, the actual required volumes of renewable fuel will be higher than the volumes used in calculating the percentage standards. By contrast, if we under-project the volume of exempted gasoline and diesel, the actual required volumes of renewable fuel will be lower than the volumes used in calculating the percentage standards.

We acknowledge that there is uncertainty with projecting the exempted volume for 2020, as petitions for 2020 SREs have not yet been submitted to or evaluated by the Department of Energy (DOE) or EPA. EPA independently evaluates SRE petitions while taking DOE's recommendation into account and has discretion to provide relief that is different than the DOE recommendation. In 2020 we anticipate granting partial exemptions where such exemptions are appropriate. This is an approach we could have taken in response to recommendations from DOE in recent years, which included partial exemption recommendations on some applications. We therefore believe it is appropriate to consider the exempt volumes of gasoline and diesel in previous years had EPA followed DOE's recommendations without deviation. We believe the approach described

[10] See, *e.g.,* comments from the Renewable Fuels Association (Docket Item No. EPA–HQ–OAR–2019–0136–0281).

[11] See, *e.g.,* comments from Growth Energy (Docket Item No. EPA–HQ–OAR–2019–0136–0312).

[12] ''Petition for Reconsideration of 40 CFR 80.1405(c), EPA Docket No. EPA–HQ–OAR–2005–0161, promulgated in 75 FR 14670 (Mar. 26, 2010); Petition for Reconsideration of Periodic Reviews for the Renewable Fuel Standard Program, 82 FR 58364 (Dec. 12, 2017)'' (June 4, 2018).

[13] The petition asserted that reconsideration was required under CAA section 307(d)(7)(B). Consistent with caselaw and recent representations by the petitioners, we do not believe that the reconsideration criteria under CAA section 307(d)(7)(B) have been met; we instead are treating the petition as a petition to revise or amend a rulemaking. See EPA's Sur-Reply in Opp. To Petr's Mot. to Lift Stay of Proceedings, D.C. Cir. No. 18–1154, ECF No. 1807187, 3 (Sept. 19, 2019); Petr's Reply in Further Support of Their Mot. to Lift Stay of Proceedings, D.C. Cir. No. 18–1154, ECF No. 1806347, 3 n.1 (Sept. 12, 2019); Pet. for Rev., D.C. Cir. No. 19–1201, ECF No. 1808877, 2 n.2 (Sept. 27, 2019). Regardless, we note that we are providing notice and a public hearing followed by a 30-day comment period, consistent with CAA section 307(d) procedures. We also take no position today on whether this administrative petition and the related judicial petitions meet the ''grounds arising after'' requirements, under CAA section 307(b)(1) and relevant caselaw, to challenge prior EPA rulemakings.

[14] *Chevron, U.S.A., Inc.* v. *Nat. Res. Def. Council, Inc.,* 467 U.S. 837, 842–44 (1984).

[15] See CAA section 211(o)(2)(A)(i), (2)(A)(iii)(I), (3)(B)(i); see also CAA section 301(a).

[16] *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009).

above is appropriate for two independent reasons.

First, in prior years, EPA has taken different approaches in evaluating petitions. For instance, in the EPA final action, the August 9, 2019, Memorandum Decision, we granted or denied 36 then-pending SRE petitions for the 2018 compliance year.[17] We granted full exemptions to petitioners where DOE either recommended full or 50% relief. That is, in cases where DOE found a small refinery experienced either disproportionate impacts or viability impairment, EPA found the small refinery experienced disproportionate economic hardship and granted a full exemption. By contrast, in earlier years of the program, we denied petitions and provided no exemption in certain cases where DOE recommended a 50% exemption, finding that disproportionate economic hardship existed only where the small refinery experienced both disproportionate impacts and viability impairment.[18] The proposed approach to projection, then, takes a middle ground between these prior approaches, and is a reasonable estimate of the aggregate expected exempted volume in 2020.

Second, this approach approximates our intended approach for adjudicating 2020 SRE petitions. The statute directs EPA to make an independent decision as to SRE petitions based on DOE's recommendation and other economic factors. While final decisions on 2020 SREs must await EPA's receipt and adjudication of those petitions, we generally have the statutory authority to issue a final decision consistent with DOE's recommendation following our own review and analysis.[19] This reading of the statute is consistent with congressional guidance to DOE[20] and EPA.[21] Consistent with that guidance and since 2014, DOE has also recommended 50% exemptions as it deemed appropriate.

We acknowledge that in the August 9 Memorandum Decision, we stated that the ''best interpretation'' of the statute was that EPA should either grant or deny petitions in full, and ''not grant partial relief.'' Specifically, we observed that the statute provided for exemptions as an ''extension of the exemption under subparagraph (A)'', where subparagraph (A) stated that the RFS program requirements ''shall not apply to small refineries under calendar year 2011.''[22] We had implemented the statutory pre-2011 exemption as a full exemption for all qualifying small refineries. Thus, we concluded that, under this interpretation, ''when Congress authorized the Administrator to provide an 'extension' of that exemption for the reason of [disproportionate economic hardship], Congress intended that extension to be a full, and not partial, exemption.''[23]

We believe, however, that this is not the only reasonable way to adjudicate exemption petitions. Had Congress spoken directly to the issue of the amount of relief EPA could provide to small refineries, EPA would be bound by that directive. However, the statute is silent with respect to EPA's authority to issue partial exemptions. Nothing in the statute directly addresses this issue. No statutory language exists characterizing the scope of an exemption; there are no terms employed such as ''partial'' or ''full.''

We think there is another reasonable reading of this provision of the statute besides the one articulated in the August 9 Memorandum Decision. Again, there we stated that we could provide full relief to small refineries for which DOE recommends 50% relief.[24] At the same time, it is also reasonable to construe the statute to allow EPA to issue partial exemptions.[25]

Notably, EPA may determine that only partial relief is warranted based on a particular small refinery's circumstances. In that case, it is reasonable for the level of relief that EPA grants to reflect that determination. Nowhere does Congress indicate that EPA must take an all-or-nothing approach. Specifically, nothing obligates EPA to provide full relief where we find that only partial relief is warranted.

For purposes of making the projection of the aggregate exempted volume of gasoline and diesel in 2020, we propose to adopt this interpretation of the statute, under which EPA has the authority to grant a partial exemption to a small refinery under appropriate circumstances.[26] Were we to finalize this approach, we would, in projecting the exempted volume, depart from the interpretation taken in the August 9 Memorandum Decision, under which EPA ''shall either grant or deny petitions for small refinery hardship in full, and not grant partial relief.''[27] We propose to adopt this new approach for several reasons. As already noted, this new policy would allow EPA to ensure that the level of relief that it grants reflect the determination it makes as to whether full or partial relief is appropriate based on a particular small refinery's disproportionate economic hardship. This allows EPA to more precisely calibrate its RFS policy, and to strike an appropriate balance between furthering the production and use of renewable fuels while granting relief to small refineries that meet the statutory criteria. This balance, moreover, is also appropriate in light of the above-cited recent Congressional direction.[28] Furthermore, we note again that even were EPA to deviate from this policy in

[17] ''Decision on 2018 Small Refinery Exemption Petitions,'' Memorandum from Anne Idsal, Acting Assistant Administrator, Office of Air and Radiation to Sarah Dunham, Director, Office of Transportation and Air Quality. August 9, 2019 (''August 9 Memorandum Decision'').

[18] *See, e.g., Hermes Consol., LLC* v. *EPA,* 787 F.3d 568, 575 (D.C. Cir. 2015).

[19] EPA retains the authority to deviate from DOE's recommendation based upon ''other economic factors,'' refinery-specific information, and other persuasive evidence that EPA should reach a different outcome. See CAA section 211(o)(9)(B)(ii).

[20] *See* Consolidated Appropriations Act, 2016, Public Law 114–113 (2015), Explanatory Statement to Senate amendment to H.R. 2029 Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2016, Division D-Energy and Water Development and Related Agencies Appropriations Act, 2016, *available at https://docs.house.gov/meetings/RU/RU00/20151216/104298/HMTG-114-RU00-20151216-SD005.pdf.* Congress in this Statement directed DOE, under certain circumstances, ''to recommend to the EPA Administrator a 50 percent waiver of RFS requirements for the [small refinery] petitioner.'' *Id.* at 35.

[21] S. Rep. 114–281. See also Consolidated Appropriations Act, 2019, Public Law 116–6 (2019), H. Rep. 116–9 at 741, continuing the directive contained in Senate Report 114–281. A recent Senate Report reiterated: ''The [Environmental Protection] Agency is reminded that, regardless of the Department of Energy's recommendation, additional relief may be granted if the Agency believes it is warranted.'' Sen. Rep. 116–123, Department of the Interior, Environment, and Related Agencies Appropriations Bill, 2020, Report Accompanying Sen. 2580, at 87–88 (Sept. 26, 2019) (again ''continu[ing] the directive contained in Senate Report 114–281 related to small refinery relief''), *available at https://www.congress.gov/116/crpt/srpt123/CRPT-116srpt123.pdf.* This guidance, read together with that discussed in the previous footnote, supports the interpretation that DOE has authority to recommend partial exemptions for particular small refineries, and that EPA has discretion, to the extent supported by the record before it, either to accept that recommendation and grant a partial exemption, or to depart from that recommendation.

[22] CAA section 211(o)(9)(B); CAA section 211(o)(9)(A).

[23] August 9 Memorandum Decision at 2.

[24] It could also be appropriate for EPA to deny an exemption in some cases where DOE recommends 50% relief, as we did in earlier years of the program.

[25] EPA solicits comment on whether the interpretation set forth in the August 9 Memorandum Decision is indeed the ''best'' interpretation. EPA notes in this regard that the ultimate question is whether the statutory interpretation under which it operates is a reasonable one.

[26] *See Chevron,* 467 U.S. at 842–44.

[27] August 9 Memorandum Decision at 2. See *FCC,* 556 U.S. at 515.

[28] *See supra* notes 20 and 21.

adjudicating 2020 SRE petitions,[29] this approach to projection nonetheless provides a reasonable estimate of the aggregate exempted volume at this time. All projections are inherently uncertain, but this projection reflects a reasonable projection of the future.

Further, although we acknowledge the difficulty of making a precise projection,[30] this inherent uncertainty does not preclude us from taking the approach set forth in this supplemental proposal. To the extent our prior statements suggested we did not believe such a projection was appropriate, we propose to change course.[31] The statute impliedly contemplates EPA's authority to make this projection, as it requires EPA to promulgate standards by November 30 of the prior year to ''ensure[ ]'' that the renewable fuel volumes are met,[32] but authorizes small refineries to petition for an exemption based on disproportionate economic hardship ''at any time.'' [33] This projection, moreover, is hardly unique in the RFS program as Congress required EPA to make numerous projections to implement the program.[34]

Today's approach, moreover, avoids the problems we previously identified with projecting small refinery exemptions. Notably, we are projecting the *aggregate* exempted volume in 2020. We thus need not wrestle with the difficulties of predicting precisely which refineries will apply or the economic circumstances of specific refineries in 2020. We only need to estimate the total exempted volume. Moreover, we retain authority to adjust the standards as appropriate should our approach to 2020 small refinery exemptions significantly change from what we anticipate it will be as it is set forth here.[35] Finally, we have the benefit of additional experience administering the RFS program, knowledge of the relatively high levels of exempted volumes in prior years, and a proposed approach for how we intend to adjudicate 2020 small refinery exemption petitions that allows us to anticipate with a high degree of probability that there will be a non-zero aggregate exempted volume as a result of those petitions. Each of these developments independently support making a non-zero projection of the exempted volume in 2020.

To project the exempted volume under this methodology, it is instructive to look back at what the exempted volumes of gasoline and diesel in previous years would have been had EPA followed DOE's recommendations, including granting partial exemptions. These volumes, along with the Renewable Volume Obligation (RVO) that would have been exempted, are shown in Table II.B–1.

TABLE II.B–1—ESTIMATED EXEMPTED VOLUME OF GASOLINE AND DIESEL AND ESTIMATED RVO EXEMPTED BY COMPLIANCE YEAR FOLLOWING DOE'S RECOMMENDATIONS

Compliance year	Estimated exempted volume of gasoline (million gallons)	Estimated exempted volume of diesel (million gallons)	Estimated RVO exempted (million RINs)
2015	1,590	1,450	290
2016	2,450	1,930	440
2017	5,650	3,870	1020
2018	4,620	3,270	840

As demonstrated in Table II.B–1, the volume of gasoline and diesel that would have been exempted if EPA had followed DOE's recommendations has varied significantly in previous years. This is because there are many factors that affect the number of SREs that are granted in a given year and those factors are inherently difficult to estimate with precision. We believe that it is appropriate to use an average volume of the gasoline and diesel that would have been exempted over a three-year period as our projection of gasoline and diesel that will be exempted in 2020, rather than the volume of gasoline and diesel that would have been exempted in any single year, as it helps to average out the effects of unique events or market circumstances that occurred in individual years in the past that may or may not occur in 2020.

We propose to project the volume of gasoline and diesel that will be exempted in 2020 per the proposed definitions described in Section II.A consistent with our current intention for evaluating the 2020 SRE petitions. While we cannot predict with certainty the approach that we will in fact take once we have received and reviewed petitions, at this time, we anticipate our evaluation will result in an exempted volume that is on the aggregate consistent with DOE's recommendations. The average volume of these fuels that would have been exempted in 2016–2018 if EPA had followed DOE's recommendations is 4,240 and 3,020 million gallons, for gasoline and diesel fuel, respectively. These exempted volumes would have resulted in an average reduction to the RVO of approximately 770 million RINs. This projection of exempted gasoline and diesel would effectively increase the percentage standards that apply to obligated parties to offset future SREs and help ensure that the required volumes are met.

We also request comment on an alternative approach using the average volume of gasoline and diesel that would have been exempted from 2015–2017 (3,230 and 2,420 million gallons, respectively, resulting in an average reduction to the RVO of approximately 580 million RINs) as our projection for the exempted volumes of gasoline and diesel in 2020. We note that if for any reason we anticipate a different approach to evaluating SRE petitions by the time of the final rule, we may also consider adjusting our methodology for projecting the exempt volumes of gasoline and diesel accordingly.

C. Example Calculation of Proposed Percentage Standards for 2020

As described in Section II.A, the calculation of the applicable percentage

[29] For instance, EPA may deviate from DOE's recommendation where we find that other economic factors compel a different outcome than what DOE recommended. Other factors, such as judicial resolution of pending decisions or subsequent Congressional direction, could also potentially affect EPA's SRE policy going forward.

[30] See EPA's Br., Doc No. 1757157, D.C. Cir. No. 17–1258, AFPM v. EPA (Oct. 25, 2018).

[31] See *FCC,* 556 U.S. at 515.

[32] CAA section 211(o)(3)(B)(i).

[33] CAA section 211(o)(9)(B)(i).

[34] *See, e.g.,* CAA section 211(o)(7)(D) (projection of the volume of cellulosic biofuel production); (o)(3)(A) (projection of the volumes of transportation fuel, biomass-based diesel, and cellulosic biofuel).

[35] *See, e.g., Ams. for Clean Energy* v. *EPA,* 864 F.3d 691, 718 (D.C. Cir. 2017) (upholding EPA's authority to promulgate late renewable fuel requirements so long as EPA reasonably balances the burdens and benefits of its approach).

standards would differ from that described in the July 29 proposal only in the definition and values of those terms representing projections of gasoline and diesel production by exempt small refineries. Rather than being assigned a value of zero as in the July 29 proposal, they would be assigned a value equal to our projection of the exempted volume of gasoline and diesel as discussed in Section II.B in accordance with our proposed definitions for GE_i and DE_i.

The values of all the variables used to calculate the applicable percentage standards are shown in Table II.C–1 for both the proposed approach to estimating 2020 SREs as well as the alternative on which we are seeking comment. All formulas for calculating the percentage standards are provided in 40 CFR 80.1405(c), subject to this action's proposed revision.

TABLE II.C–1—EXAMPLE VALUES FOR TERMS IN CALCULATION OF 2020 STANDARDS [36]

[Billion gallons]

Term	Description	Proposed values based on average of 2016–2018 estimated exemptions	Alternative values based on average of 2015–2017 estimated exemptions
RFV_{CB}	Required volume of cellulosic biofuel	0.54	0.54
RFV_{BBD}	Required volume of biomass-based diesel	2.43	2.43
RFV_{AB}	Required volume of advanced biofuel	5.04	5.04
RFV_{RF}	Required volume of renewable fuel	20.04	20.04
G	Projected volume of gasoline	142.49	142.49
D	Projected volume of diesel	56.77	56.77
RG	Projected volume of renewables in gasoline	14.58	14.58
RD	Projected volume of renewables in diesel	2.48	2.48
GS	Projected volume of gasoline for opt-in areas	0	0
RGS	Projected volume of renewables in gasoline for opt-in areas	0	0
DS	Projected volume of diesel for opt-in areas	0	0
RDS	Projected volume of renewables in diesel for opt-in areas	0	0
GE	Projected volume of exempt gasoline	4.24	3.23
DE	Projected volume of exempt diesel	3.02	2.42

As described in Section II.B, the values for GE and DE in Table II.C–1 do not represent the SREs actually granted in the years cited, but rather the SREs that would have been granted had EPA followed, without deviation, the recommendations received from DOE following their independent assessment of the information provided by each small refinery. We updated the projected volumes of total gasoline and diesel, and the renewable fuels contained within them, since the July 29 proposal to use volumes derived from values in the September 2019 version of EIA's Short-Term Energy Outlook. An estimate of fuel consumed in Alaska, derived from the June 28, 2019, release of EIA's State Energy Data System and based on the 2017 volumes contained therein, was subtracted from the nationwide volumes. The required volumes of renewable fuel used in Table II.C–1 are based on the July 29 proposal. These volumes have not been updated to reflect data available since the July 29 proposal; however, we intend to adjust these volumes to account for more recent information in the final rule.

Using the volumes shown in Table II.C–1, we have calculated two versions of revised proposed applicable percentage standards for 2020 as shown in Table II.C–2. We have also included the percentage standards from the July 29 proposal.

TABLE II.C–2—EXAMPLE PERCENTAGE STANDARDS FOR 2020

	Proposed values in the July 29 proposal (percent)	Proposed values based on average of 2016–2018 estimated exemptions (percent)	Alternative values based on average of 2015–2017 estimated exemptions (percent)
Cellulosic biofuel	0.29	0.31	0.31
Biomass-based diesel	1.99	2.08	2.06
Advanced biofuel	2.75	2.88	2.85
Renewable fuel	10.92	11.46	11.35

The percentage standards in the final rule will depend upon not only the value of projected volume of exempt gasoline and diesel, which could differ from those used above, but also the projected volumes of gasoline and diesel produced by all refineries as well as the volume requirements for renewable fuel. Our determination of all of these values will be informed by the comments we received on the July 29 proposal and this supplemental proposal, as well as other information that may become available.

[36] See ''Calculation of supplemental proposed % standards for 2020'' in docket EPA–HQ–OAR–2019–0136.

III. Statutory and Executive Order Reviews

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

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket.

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

This action is expected to be an Executive Order 13771 regulatory action. There are no quantified cost estimates for this supplemental proposed rule because it does not change the applicable volumes proposed in the July 29 proposal.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control numbers 2060–0637 and 2060–0640. The proposed revisions will not impose new or different reporting requirements on regulated parties than already exist for the RFS program.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule.

The small entities directly regulated by the RFS program are small refiners, which are defined at 13 CFR 121.201. This supplemental proposed rule does not change the applicable volumes proposed in the July 29 proposal. Nor does it change the compliance flexibilities currently offered to small entities under the RFS program (including the SRE provisions we continue to implement). We have therefore concluded that this action will have no net regulatory burden for directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments.

F. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. This action will be implemented at the Federal level and affects transportation fuel refiners, blenders, marketers, distributors, importers, exporters, and renewable fuel producers and importers. Tribal governments will be affected only to the extent they produce, purchase, or use regulated fuels. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it implements specific standards established by Congress in statutes (CAA section 211(o)) and does not concern an environmental health risk or safety risk.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The RFS program and this rule are designed to achieve positive effects on the nation's transportation fuel supply, by increasing energy independence and security and lowering lifecycle GHG emissions of transportation fuel.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This regulatory action does not affect the level of protection provided to human health or the environment by applicable air quality standards. This action does not relax the control measures on sources regulated by the RFS regulations.

IV. Statutory Authority

Statutory authority for this action comes from sections 114, 203–05, 208, 211, and 301 of the Clean Air Act, 42 U.S.C. 7414, 7522–24, 7542, 7545, and 7601.

List of Subjects in 40 CFR Part 80

Environmental protection, Administrative practice and procedure, Air pollution control, Diesel fuel, Fuel additives, Gasoline, Imports, Oil imports, Petroleum, Renewable fuel.

Dated: October 15, 2019.

Andrew R. Wheeler,

Administrator.

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR part 80 as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

■ 1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7521, 7542, 7545, and 7601(a).

Subpart M—Renewable Fuel Standard

■ 2. Amend § 80.1405 by revising the equation in paragraph (c) definitions of GE_i and DE_i to read as follows:

§ 80.1405 What are the Renewable Fuel Standards?

* * * * *

(c) * * *

GE_i = The total amount of gasoline projected to be exempt in year i, in gallons, per §§ 80.1441 and 80.1442.

DE_i = The total amount of diesel fuel projected to be exempt in year i, in gallons, per §§ 80.1441 and 80.1442.

* * * * *

[FR Doc. 2019–23379 Filed 10–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2019–0041; FRL–10001–11]

Receipt of a Pesticide Petition Filed for Residues of Pesticide Chemicals in or on Various Commodities (September 2019)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petition and request for comment.

SUMMARY: This document announces the Agency's receipt of an initial filing of a pesticide petition requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before November 27, 2019.

ADDRESSES: Submit your comments, identified by docket identification (ID) number by one of the following methods:

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

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (7505P), main telephone number: (703) 305–7090, email address: *RDFRNotices@epa.gov;* or Robert McNally, Biopesticides and Pollution Prevention Division (7511P), main telephone number: (703) 305–7090, email address: *BPPDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each pesticide petition summary.

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. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the Agency taking?

EPA is announcing receipt of a pesticide petition filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the request before responding to the petitioner. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petition described in this document contains data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the pesticide petition. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition that is the subject of this document, prepared by the petitioner, is included in a docket EPA has created for this rulemaking. The docket for this petition is available at *http://www.regulations.gov.*

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

A. Amended Tolerances for Non-Inerts

1. *PP 9E8771.* (EPA–HQ–OPP–2019–0460). The Interregional Research Project No. 4 (IR–4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08540, proposes upon establishment of tolerances referenced in this document under ''New Tolerances'' for PP# 9E8771, to remove existing tolerances in 40 CFR 180.679 for residues of the insecticide flupyradifurone, 4-[[(6-chloro-3-pyridinyl)methyl](2,2-

difluoroethyl)amino]-2(5H)-furanone, including its metabolites and degradates in or on *Brassica,* head and stem subgroup 5A at 6.0 parts per million (ppm); *Brassica,* leafy greens subgroup 5B at 40 ppm; cactus, fruit at 0.30 ppm; cilantro, fresh leaves at 30 ppm; coffee, green bean (import tolerance) at 1.5 ppm; leaf petioles, subgroup 4B at 9.0 ppm; leafy greens, subgroup 4A at 30 ppm; pitaya at 0.30 ppm; and yurnip greens at 40 ppm. *Contact:* RD.

2. *PP 9F8770.* (EPA–HQ–OPP–2019–0523). BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, North Carolina 27709–3528, requests to amend the tolerance in 40 CFR 180.463 for residues of the herbicide quinclorac in or on rice, grain at 10.0 ppm. A high-performance liquid chromatography/tandem mass spectrometry (LC/MS/MS) enforcement analytical method is used to measure and evaluate the chemical quinclorac. *Contact:* RD.

B. New Tolerance Exemptions for Inerts (Except PIPs)

1. *PP IN–11342.* (EPA–HQ–OPP–2019–0549). Solvay USA Inc., c/o SciReg, Inc., 12733 Director's Loop, Woodbridge, VA 22192, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180.960 for residues of 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt (CAS Reg No. 1802325–28–5) with a minimum number average molecular weight of 6,000 daltons when used as an inert ingredient in pesticide formulations. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

2. *PP IN–11343.* (EPA–HQ–OPP–2019–0548). Solvay USA Inc., c/o SciReg, Inc., 12733 Director's Loop, Woodbridge, VA 22192, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180.960 for residues of polyethyleneglycol, bis(sulfooxy)-, disodium salt (CAS Reg No. 73038–32–1) with a minimum number average molecular weight of 2,000 daltons when used as an inert ingredient in pesticide formulations. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

C. New Tolerance Exemptions for Non-Inerts (Except PIPs)

PP 9E8784. EPA–HQ–OPP–2017–0335. IR–4, Rutgers, The State University of New Jersey, 500 College Rd. East, Suite 201W, Princeton, NJ 08540, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the herbicide *Pseudomonas fluorescens* strain ACK55 in or on all food commodities. The petitioner believes no analytical method is needed because an exemption from the requirement of a tolerance is being proposed. *Contact:* BPPD.

D. New Tolerances for Non-Inerts

1. *PP 7F8572.* EPA–HQ–OPP–2017–0510. FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104, requests to establish a tolerance in 40 CFR part 180 for residues of the herbicide pethoxamid in or on the raw agricultural commodities: Cattle, fat at 0.01 ppm; cattle, meat at 0.01 ppm; cattle, meat byproducts at 0.01 ppm; corn, field, grain at 0.01 ppm; corn, field, forage at 0.015 ppm; corn, field, stover at 0.02 ppm; corn, sweet, kernel plus cobb with husk removed at 0.01 ppm; corn, sweet, stover at 0.60 ppm; cotton, gin byproducts at 0.09 ppm; cotton, undelinted seed at 0.01 ppm; egg at 0.01 ppm; goat, fat at 0.01 ppm; goat, meat at 0.01 ppm; goat, meat byproducts at 0.01 ppm; hog, fat at 0.01 ppm; hog, meat at 0.01 ppm; hog, meat byproducts at 0.01 ppm; horse, fat at 0.01 ppm; horse, meat at 0.01 ppm; horse, meat byproducts at 0.01 ppm; milk at 0.01 ppm; popcorn, grain at 0.01 ppm; popcorn, stover at 0.01 ppm; poultry, fat at 0.01 ppm; poultry, meat at 0.01 ppm; poultry, meat byproducts at 0.01ppm; sheep, fat at 0.01 ppm; sheep, meat at 0.01 ppm; sheep, meat byproducts at 0.01 ppm; soybean, forage at 3.0 ppm; soybean, hay at 4.5 ppm; and soybean, seed at 0.01 ppm. An LC–MS/MS method is used to measure and evaluate the chemical pethoxamid. *Contact:* RD.

2. *PP 8F8723.* (EPA–HQ–OPP–2019–0232). Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268, requests to establish a tolerance in 40 CFR part 180 for residues of the herbicide nitrapyrin in or on beet, sugar, roots at 0.30 ppm; beet, sugar, molasses at 0.70; beet, sugar, tops at 0.70 ppm; canola, seed at 0.30 ppm; canola, meal at 0.80 ppm; potato, processed potato waste at 1.50 ppm; and vegetable, tuberous and corm, subgroup at 0.60 ppm. Method 205G881A–1 determines residues of nitrapyrin by extracting with deionized water and 1:1 (v/v) hexane: Toluene. Method 205G881–B1 determines residues of 6-chloropicolinic acid by extracting with aqueous 0.1 N sodium hydroxide. Both methods have been validated with four crop types including iceberg lettuce (high water), whole navel orange fruit (acidic), maize grain (dry) and canola seed (oily). *Contact:* RD.

3. *PP 9E8771.* (EPA–HQ–OPP–2019–0460). The Interregional Research Project No. 4 (IR–4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests to establish a tolerance in 40 CFR part 180.679 for residues of the insecticide flupyradifurone, 4-[[(6-chloro-3-pyridinyl)methyl](2,2-difluoroethyl)amino]-2(5H)-furanone, including its metabolites and degradates in or on *Brassica,* leafy greens, subgroup 4–16B at 40 ppm, celtuce at 9 ppm, coffee, green bean at 1.5 ppm, fennel, Florence, fresh leaves and stalk at 9 ppm, kohlrabi at 6 ppm, leaf petiole vegetable subgroup 22B at 9 ppm, leafy greens subgroup 4–16A at 30 ppm, pineapple at 0.3 ppm, tropical and subtropical, inedible peel, cactus, subgroup 24D at 0.3 ppm, tropical and subtropical, palm fruit, edible peel, subgroup 23C at 8 ppm, sesame, seed at 3 ppm, stalk and stem vegetable subgroup 22A, except prickly pear, pads, and prickly pear, Texas, pads at 0.01 ppm, sunflower subgroup 20B at 0.7 ppm, and vegetable, *Brassica,* head and stem, group 5–16 at 6 ppm. Additionally, (c) a tolerance with a regional restriction is being proposed for residues of the insecticide flupyradifurone, 4-[[(6-chloro-3-pyridinyl)methyl](2,2-difluoroethyl)amino]-2(5H)-furanone, including its metabolites and degradates in or on the raw agricultural commodity: Grass, forage, fodder and hay, group 17 at 15 ppm. The high-performance liquid chromatography-electrospray ionization/tandem mass spectrometry (HPLC/MS/MS) is used to measure and evaluate the chemical. *Contact:* RD.

4. *PP 9F8775.* (EPA–HQ–OPP–2019–0460). Bayer CropScience, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, requests to establish a tolerance in 40 CFR part 180 for residues of the insecticide, Flupyradifurone, in or on Rapeseed subgroup (Crop Subgroup 20A) at 0.03 ppm. The analytical method involves, solvent extraction, purification through a C–18 solid-phase extraction column, and addition of a mixture of stable, isotopically labelled internal standards. Quantitation is by HPLC/MS/MS. *Contact:* RD.

Authority: 21 U.S.C. 346a.

Dated: October 10, 2019.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2019–23355 Filed 10–25–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300, 600, and 679

[Docket No.: 190925–0042]

RIN 0648–BI65

Fisheries of the Exclusive Economic Zone Off Alaska; Authorize the Retention of Halibut in Pot Gear in the BSAI; Amendment 118; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments; correction.

SUMMARY: NMFS is correcting the proposed rule that published on October 3, 2019, to implement Amendment 118 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and a regulatory amendment to revise regulations on Vessel Monitoring System (VMS) requirements in the Bering Sea and Aleutian Islands (BSAI) and Gulf of Alaska (GOA). The proposed rule incorrectly stated the date of publication and the end of the comment period on the Notice of Availability, and this action corrects this error.

DATES: The proposed rule published on October 3, 2019 at 84 FR 52852 is corrected as of October 25, 2019.

FOR FURTHER INFORMATION CONTACT: Stephanie Warpinski, 907–586–7228.

SUPPLEMENTARY INFORMATION: On October 3, 2019, NMFS published a proposed rule to implement Amendment 118 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and a regulatory amendment to revise regulations on Vessel Monitoring System (VMS) requirements in the Bering Sea and Aleutian Islands (BSAI) and Gulf of Alaska (GOA) (84 FR 52852). The proposed rule is necessary to improve efficiency and provide economic benefits for the Individual Fishing Quota (IFQ) and Community Development Quota (CDQ) fleets, minimize whale depredation and seabird interactions in the IFQ and CDQ fisheries, and reduce the risk of exceeding an overfishing limit for any species.

Need for Correction

The Notice of Availability (NOA) for Amendment 118 to the BSAI FMP published on August 21, 2019, with a 60-day comment period through October 21, 2019 (84 FR 43570), as required under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1854(a)). The proposed rule published on October 3, 2019, with public comment invited through November 4, 2019 (84 FR 52852). The proposed rule incorrectly identified the date the NOA for Amendment 118 published in the **Federal Register** and the end of the NOA comment period. NMFS is now correcting the proposed rule to reflect the correct dates for the NOA. NMFS is not changing the publication date or comment period date for the NOA, and NMFS provided a 60-day comment period on the NOA for Amendment 118 to the BSAI FMP. NMFS is not changing the comment period for the proposed rule, and all comments received by November 4, 2019, will be addressed in the response to comments in the final rule.

Correction

In the proposed rule, published October 3, 2019 (84 FR 52852) in the third column on page 52853, the paragraph before the Background heading is corrected to read as follows:

A notice of availability (NOA) for Amendment 118 was published in the **Federal Register** on August 21, 2019 (84 FR 43570) with comments invited through October 21, 2019. Comments submitted on this proposed rule by the end of the comment period (See **DATES**) will be considered by NMFS and addressed in the response to comments in the final rule. Comments submitted on this proposed rule may address Amendment 118 or this proposed rule. However, all comments addressing Amendment 118 must be received by October 21, 2019, to be considered in the approval/disapproval decision on Amendment 118. Commenters do not need to submit the same comments on both the NOA and this proposed rule. All relevant written comments received by October 21, 2019, whether specifically directed to the FMP amendment, this proposed rule, or both, will be considered by NMFS in the approval/disapproval decision for Amendment 118, and all relevant written comments received by November 4, 2019, will be addressed in the response to comments in the final rule.

Dated: October 21, 2019.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2019–23310 Filed 10–25–19; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 84, No. 208

Monday, October 28, 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

Food Safety and Inspection Service

[Docket No. FSIS–2018–0045]

Changes to the Salmonella Verification Testing Program: Proposed Performance Standards for Salmonella in Raw Ground Beef and Beef Manufacturing Trimmings and Related Agency Verification Procedures

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing and requesting comment on new pathogen reduction performance standards for *Salmonella* in raw ground beef and beef manufacturing trimmings.

The Agency is also announcing how it plans to assess whether establishments producing raw ground beef and/or beef manufacturing trimmings are effectively addressing *Salmonella,* using a 52-week moving window of FSIS sampling results and other related verification activities. Approximately one year (52 weeks) after the new standards are made final, the Agency plans to post individual establishment performance as either ''meeting'' or ''not meeting'' the pathogen reduction performance standard on the FSIS website, based on the most recent 48 *Salmonella* sample results.

Finally, FSIS is also announcing that it intends to increase *Salmonella* sampling to once per week in beef establishments that produce greater than 50,000 pounds of raw ground beef and beef manufacturing trimmings per day, so that a sufficient number of *Salmonella* samples (*i.e.,* 48) are collected to assess these establishments' performance against the new *Salmonella* performance standards. Note that FSIS will continue to analyze these beef manufacturing trimmings samples for *Escherichia coli* O517:H7 and applicable non-O157 Shiga-toxin producing *E. coli* (STEC); FSIS will continue to analyze these ground beef samples for *E. coli* O157:H7. Although unlikely with this change, if fewer than 48 samples are collected or analyzed in a 52-week window at an establishment, its status would be reported as ''N/A,'' provided the establishment has two or fewer *Salmonella* positives in that window.

FSIS will consider comments received on this notice before announcing the final performance standards in the **Federal Register** and assessing whether establishments meet them.

DATES: Submit comments on or before December 27, 2019.

ADDRESSES: FSIS invites interested persons to submit comments on this notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2018–0045. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202)720–5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Terri Nintemann, Assistant Administrator, Office of Policy and Program Development by telephone at (202) 205–0495.

SUPPLEMENTARY INFORMATION: FSIS is responsible for verifying that the nation's commercial supply of meat, poultry, and egg products is safe, wholesome, and properly labeled and packaged.

Salmonella bacteria are among the most frequent causes of foodborne illness. These bacteria reside in the gastrointestinal tract and other organs of food animals; therefore, they also are good indicators for food product contamination with enteric pathogens. *Salmonella* are often introduced during the rearing of live animals, *e.g., Salmonella* may contaminate the exterior of an animal on the farm, remain attached to the animal's hide or carcass, and can contaminate raw beef products during slaughter and subsequent fabrication and further processing. Currently, events that cause contamination of beef carcasses cannot be completely eliminated from commercial slaughter, fabrication, or further processing operations. Contamination can be minimized, however, with the use of proper sanitary dressing procedures and through the application of antimicrobial interventions during the slaughter, fabrication, and further processing of carcasses into beef products, including ground beef.

FSIS began its *Salmonella* verification testing program with the final rule entitled ''Pathogen Reduction; Hazard Analysis and Critical Control Point Systems'' (PR/HACCP Rule), published on July 25, 1996 (61 FR 38805). Among other things, the PR/HACCP Rule established *Salmonella* pathogen reduction performance standards for establishments that slaughter selected classes of food animals [1] and/or that produce selected classes of raw ground products. FSIS continues to use pathogen reduction performance standards as a measure of process control and to ensure that establishments are consistently controlling or reducing harmful bacteria not ordinarily considered adulterants in raw meat and poultry products.[2]

[1] In 2011, FSIS stopped sampling and testing for *Salmonella* in beef carcasses (steers and heifers and cows and bulls) because percent positive findings were very low; less than one percent. FSIS sampling and testing for *Salmonella* in raw ground beef continued, however.

[2] The Agency's ability to directly enforce the pathogen reduction performance standards in 9 CFR 310.25 has been limited since 2001, after a ruling

Because of continued outbreaks of *Salmonella* illness associated with the consumption of ground beef products, FSIS is proposing to update its *Salmonella* performance standard for raw ground beef and establish a new performance standard for beef manufacturing trimmings,[3] the primary component of raw ground beef. These updated and new performance standards would address the market failure from information asymmetry between producers and buyers. Absent these standards, buyers could not readily identify the difference in *Salmonella* levels across producers. A summary of the most recent *Salmonella* outbreaks linked to ground beef and FSIS's responses to these outbreaks that ultimately led to the development of the new performance standards follows.

In 2011, FSIS investigated a multi-State outbreak of 20 *Salmonella* Typhimurium infections linked to the consumption of ground beef.[4] Eight people were hospitalized, and the outbreak strain was resistant to at least seven antibiotics. In 2012, an establishment recalled approximately 30,000 pounds of raw ground beef linked to a multi-state outbreak of *Salmonella* Enteritidis with 46 persons infected.[5] Twelve people were hospitalized. Also, in 2012, the Centers for Disease Control and Prevention (CDC) confirmed a single-State outbreak from ground beef contaminated with *Salmonella* Enteritidis that resulted in 24 illnesses. Two people were hospitalized. In 2013, 22 persons from six States were infected with *Salmonella* Typhimurium linked to ground beef.[6] Seven people were hospitalized.

In response to these outbreaks, on August 28, 2013, FSIS published in the **Federal Register** a notice announcing changes it was making to its *Salmonella* verification testing program for raw beef products intended for non-intact use (78 FR 53017). Specifically, FSIS announced that it would begin analyzing for *Salmonella* all samples of raw ground beef, beef manufacturing trimmings, bench trim, and other raw ground beef components that it already collects for STEC testing, including raw ground beef products that FSIS samples at retail stores, and imported shipments of raw ground beef, trim, and other raw ground beef components that FSIS samples at official import inspection establishments. In addition, FSIS announced that it was increasing the raw ground beef analytical sample portion from 25 grams to 325 grams.[7] FSIS explained that the likelihood of detecting positive samples increases with the analytical portion size. FSIS also described how it intended to use the results generated from its raw ground beef (''MT43'') and beef manufacturing trimmings (''MT60'') verification testing programs to estimate the *Salmonella* prevalence in those products and to develop updated or new pathogen reduction performance standards.

Finally, FSIS stated in this notice that it was considering alternatives to set-based sampling for *Salmonella,* including routine sampling throughout the year used in conjunction with a ''moving window'' approach to assess process control in establishments subject to performance standards. FSIS explained that this approach would allow for on-going scheduled *Salmonella* sampling, similar to the approach FSIS has used for STEC sampling and would provide FSIS with more flexibility for scheduling sample collections at different establishments.

After reviewing the comments received on the August 2013 notice, FSIS announced in the **Federal Register** that it was implementing the plans in that notice on June 5, 2014 (79 FR 32436). Thus, on June 29, 2014, FSIS discontinued *Salmonella* sampling set procedures for raw ground beef products (the ''HC01'' sampling program) and stopped assessing whether establishments met the codified pathogen reduction performance standards for ground product, except in those establishments in Category 3.[8] [9] At the same time, FSIS began co-analyzing for *Salmonella* all samples of raw beef products it collects for STEC analysis (including imported raw beef products) using the larger analytical sample portion. FSIS collects raw beef products for STEC analysis and *Salmonella* analysis regardless of production volume; FSIS did not establish a low volume exemption for beef establishments for FSIS STEC or *Salmonella* verification testing. FSIS has posted the aggregate results of this testing as part of its quarterly sampling project results reporting.[10]

Notably, in 2015, the CDC published an analysis of beef-related outbreaks from 1973–2011 and reported that ground beef is now a significant source of *Salmonella* outbreaks and that stronger measures are needed to decrease contamination of raw ground beef with *Salmonella.*[11]

Beginning in 2016 and ending in 2017, the CDC reported 106 illnesses in 21 States associated with *Salmonella* Newport from ground beef.[12] One person died, and 42 people were hospitalized. Notably, the CDC is currently investigating a multi-State illness outbreak from beef products contaminated with *Salmonella* Newport.[13] To date, this outbreak has resulted in 403 illnesses from 30 States, with 117 people hospitalized. On October 4, 2018, approximately 6.5 million pounds of beef products, including ground beef, were recalled due to this outbreak and an expansion of the recall with an additional 5.2 million pounds of beef products occurred on December 4, 2018.[14]

Moving Window Approach

On February 11, 2016, the Agency explained how it would assess performance using a moving window of FSIS sampling results in poultry establishments subject to *Salmonella* and *Campylobacter* pathogen reduction performance standards (81 FR 7285). FSIS stated that the moving window would be 52 weeks and that the Agency

by the U.S. Court of Appeals for the Fifth Circuit in *Supreme Beef Processors, Inc.* v. *USDA.* In that case, the court enjoined FSIS from suspending inspection services against a meat grinding operation for failure to meet the *Salmonella* performance standards. Since that time, FSIS has used *Salmonella* failures as a basis to conduct an in-depth evaluation of the establishment's Hazard Analysis and Critical Control Point systems, including its HACCP plan and Sanitation Standard Operating Procedures.

[3] FSIS defines ''beef manufacturing trimmings'' as trim produced from cattle (including veal) that are slaughtered at the establishment where the FSIS sampling is occurring. Beef manufacturing trimmings include trim of any size and primal or subprimal cuts, such as chucks, rounds, or shanks, or boneless beef of any size used at the slaughter establishment for non-intact use, or that is intended for raw non-intact use by other establishments.

[4] *https://www.cdc.gov/salmonella/2011/ground-beef-2-1-2012.html.*

[5] *http://www.cdc.gov/salmonella/enteritidis-07-12/index.html;* FSIS Recall 045–2012.

[6] *http://www.cdc.gov/salmonella/typhimurium-01-13/index.html;* FSIS Recalls 008–2013 and 009–2013.

[7] After the Agency increased the analytical sample portion from 25 grams to 325 grams, FSIS stopped using the *Salmonella* performance standard for ground beef Table 2 in 9 CFR 310.25(b) because it was established on the basis of prevalence as measured by a 25-gram sample.

[8] An establishment in Category 3 is exceeding the *Salmonella* performance standard. FSIS Notice 28–14 instructed FSIS inspectors to continue set testing at establishments in Category 3 until the establishment is in Category 1 or 2.

[9] FSIS discontinued all sampling sets for ground beef products in establishments in Category 3 in June 2015.

[10] *http://www.fsis.usda.gov/wps/portal/fsis/topics/data-collection-and-reports/microbiology/sampling-project-results.*

[11] Laufer, A., Grass, J., Holt, K., Whichard, J., Griffin, P., Gould, L., 2015. Outbreaks of *Salmonella* infections attributed to beef—United States, 1973–2011. Epidemiology and Infection 143, 2003–2013.

[12] *https://www.cdc.gov/mmwr/volumes/67/wr/mm6715a2.htm.*

[13] *https://www.cdc.gov/salmonella/newport-10-18/index.html.*

[14] FSIS Recall 085–2018.

would collect samples more frequently in higher-volume establishments and less frequently in lower-volume establishments. The 52-week window obviates the need to account directly for seasonal fluctuations in contamination frequency.[15] FSIS intends to use a similar approach for beef establishments that produce raw ground beef and/or beef manufacturing trimmings that will be subject to the updated or new *Salmonella* performance standards. As further explained below, the category reported for each establishment would be based on the last 48 FSIS *Salmonella* sample results during the most recent 52-week window.

Healthy People 2020 (HP2020) Goals

Food safety is a key component of the Healthy People (HP) initiative, with an entire focus area dedicated to joint FSIS, Food and Drug Administration (FDA), and CDC efforts to reduce foodborne illness, including salmonellosis, in the population. Under the HP2020 goals, FSIS committed, with its public health partners, to a 25-percent reduction in annual cases of salmonellosis.[16] Using published results from the CDC,[17] FSIS estimates a median of about 80,000 annual cases of salmonellosis associated with the consumption of cuts of intact beef and ground beef contaminated with *Salmonella.* FSIS estimates that approximately 53 percent of these illnesses are associated with ground beef. Thus, to meet the 25-percent reduction goal, there would need to be 10,600 fewer annual illnesses caused by raw ground beef contaminated with *Salmonella.*[18]

Pathogen Reduction Performance Standards

With the goal of reducing *Salmonella* in raw ground beef products, the Agency is proposing an updated and a new pathogen reduction performance standard for *Salmonella* in raw ground beef and in beef manufacturing trimmings (the primary component of ground beef), respectively. Because the ground beef industry is highly concentrated by production volume, FSIS developed pathogen reduction performance standards for each product class based on a daily production volume threshold. Both proposed performance standards would be applicable to higher-volume establishments (*i.e.,* those producing greater than 50,000 pounds of these products per day). This approach would account for approximately 91 percent of the total raw ground beef and 96 percent of the total beef manufacturing trimmings production volume annually. And as further explained in FSIS's Public Health Effects of Performance Standards for Ground Beef and Beef Manufacturing Trimmings (2019 Risk Assessment),[19] the approach would also focus Agency resources on raw ground beef establishments shown to have the highest *Salmonella* prevalence. FSIS predicts that most higher-volume beef establishments would meet the proposed performance standards.

FSIS's goal is to collect and analyze at least 48 samples per year for each establishment producing greater than 50,000 pounds of ground beef or beef manufacturing trimmings per day. Analyzing this number of samples would provide strong evidence that an establishment is either meeting or not meeting the performance standards. To achieve this goal, FSIS plans to change how it currently assigns STEC sampling and thus *Salmonella* sampling in higher-volume beef establishments producing ground beef and/or beef manufacturing trimmings by increasing the sample collection frequency from a maximum of four times per month to once per week for these product classes. FSIS intends to implement this change in a resource neutral manner by reallocating resources from lower-volume beef establishments (*i.e.,* those producing 50,000 pounds or less per day). As noted above, FSIS samples less frequently in the lower-volume establishments. The Agency requests comments on the proposed changes.

The methods for developing the proposed pathogen reduction performance standards and predictions for the public health effect of those standards are described in the 2019 Risk Assessment. FSIS used the same methodology to estimate the public health effects for the young chicken and turkey carcass *Salmonella* and *Campylobacter* performance standards in 2011 [20] and to develop pathogen reduction performance standards for *Salmonella* and *Campylobacter* in raw chicken parts and not-ready-to-eat (NRTE) comminuted chicken and turkey products in 2015.[21]

FSIS has opted not to propose pathogen reduction performance standards for raw ground beef and/or beef manufacturing trimmings in lower-volume establishments (*i.e.,* those producing 50,000 pounds or less per day of these products) at this time. FSIS will, however, continue co-analyzing for *Salmonella* in all samples it collects for STEC analysis from these establishments to monitor ongoing pathogen prevalence. A summary of the updated or new performance standards is provided in Table 1.

Since there are not enough data (*i.e.,* samples collected and tested) for components of ground beef other than beef manufacturing trimmings, *e.g.,* esophagus (weasand) meat, head meat, and cheek meat to estimate a national prevalence, FSIS is not proposing a pathogen reduction performance standard for such products at this time. With that said, FSIS will continue to analyze its testing data to better understand the potential for contamination in these products. Such information could be used by the Agency to decide whether a pathogen reduction performance standard for one or more of these components is also necessary. FSIS is seeking comment on the merits of developing a pathogen reduction performance standard for components of raw ground beef other than beef manufacturing trimmings.

[15] FSIS (2015). Public health effects of raw chicken parts and comminuted chicken and poultry performance standards. Washington, DC, United States Department of Agriculture; Williams, M.S., Ebel, E.D., Golden, N.J., Schlosser, W.D. (2014). Temporal patterns in the occurrence of *Salmonella* in raw meat and poultry products and their relationship to human illnesses in the United States. *Food Control* 35(1): 267–273.

[16] Once the Healthy People 2030 objectives have been finalized, FSIS intends to assess whether changes to its performance standards are warranted.

[17] Scallan *et al.,* 2011; Painter *et al.,* 2013

[18] Moving forward, FSIS plans to utilize more recent estimates of foodborne illness source attribution to estimate cases of foodborne illness attributed to FSIS-regulated products. These estimates, produced by the Interagency Food Safety Analytics Collaboration (IFSAC), a tri-agency group with representatives from the CDC, FDA, and FSIS, uses foodborne outbreak data to produce harmonized, annual attribution estimates for *Salmonella, Escherichia coli* O157, *Listeria monocytogenes,* and *Campylobacter.*

[19] Available at *http://www.fsis.usda.gov/wps/wcm/connect/8a38566a-6d6c-4c96-85ce-41fd02050358/beef-ps-aug-2019.pdf?MOD=AJPERES.*

[20] 76 FR 15282; Mar. 14, 2011.

[21] 80 FR at 3940; Jan. 26, 2015.

TABLE 1—UPDATED OR NEW PERFORMANCE STANDARDS FOR SALMONELLA IN RAW GROUND BEEF AND BEEF MANUFACTURING TRIMMINGS

Product (establishment volume (lbs./day))	Maximum number of allowable positive samples	Minimum number of samples needed to assess establishment performance *
Raw Ground Beef (>50,000)	2 of 48	48
Beef Manufacturing Trimmings (>50,000)	2 of 48	48

* Any establishment with three or more *Salmonella* positives in a 52-week window would be categorized as *not meeting* the performance standard even when less than the minimum number of samples (48) are collected/analyzed.

Raw Ground Beef

For raw ground beef, FSIS is proposing a pathogen reduction performance standard for *Salmonella* of two allowable positives out of 48 samples. This standard would be applied to all higher-volume establishments, which includes those producing more than 50,000 pounds of raw ground beef product per day (approximately 75 establishments). As mentioned above, FSIS intends to assign samples weekly in all establishments producing more than 50,000 pounds of eligible product per day with the goal of collecting and analyzing 48 samples in a 52-week window.

FSIS predicts that approximately 18 percent of establishments (about 14 establishments) would initially not meet this performance standard. Once implemented, if about half of the establishments producing more than 50,000 pounds of raw ground beef per day that are not meeting the proposed performance standard subsequently begin to meet this standard, this should result in about a 25-percent reduction in *Salmonella* illnesses from that product. The median expected number of illnesses avoided per year would be about 8,900 (90% Uncertainty Interval: 2,000–20,000).

Specifics of the 52-Week Window Approach and Categorizing Establishments

As stated, the performance standard is intended to apply to 48 samples in a 52-week window. If FSIS collects and analyzes more than 48 samples in a 52-week window, the most recent 48 sample results in that 52-week window would be used to categorize the establishment. Although unlikely with the proposed reallocation of sampling resources, there may be rare occasions when fewer than 48 samples are collected and analyzed in these establishments within a 52-week window. If fewer than 48 samples are collected or analyzed, the establishment's status would be reported as ''N/A,'' provided the establishment has two or fewer *Salmonella* positives in that window. Any establishment with three or more *Salmonella* positives in a 52-week window would be categorized as *not meeting* the performance standard regardless of the number of samples collected/analyzed in that window.

Beef Manufacturing Trimmings

For beef manufacturing trimmings, FSIS is also proposing a pathogen reduction performance standard for *Salmonella* of two allowable positives out of 48 samples in a 52-week window that would be applied to eligible establishments producing more than 50,000 pounds of this product per day (approximately 49 establishments). Approximately 20 percent of establishments (about 10 establishments) are predicted to initially not meet this performance standard.

The specifics of the 52-week window and categorizing establishments are the same as above. Each establishment's category status (*i.e., meeting, not meeting,* or *N/A*) for beef manufacturing trimmings would be reported as described above for raw ground beef.

FSIS has chosen not to attribute any averted illnesses resulting from the proposed performance standard for beef manufacturing trimmings because this product is not consumed directly. FSIS believes, however, that a performance standard is needed for beef manufacturing trimmings to assist grinding establishments that purchase this product for further processing in managing *Salmonella* contamination in their ground beef. For example, a grinding operation may opt to change beef manufacturing trimmings suppliers if its current supplier is categorized as *not meeting* the beef manufacturing trimmings *Salmonella* performance standard and has not taken actions to reduce *Salmonella* contamination in its product; this is especially true if the grinding operation is concerned about not meeting the raw ground beef *Salmonella* performance standard and wants to mitigate the chances of that outcome. Although reductions in *Salmonella* surface contamination on beef manufacturing trimmings should reduce contamination of raw ground beef, the specific magnitude of this reduction is uncertain.

Web-Posting Establishment Performance

FSIS announced that it intended to post the category status for all establishments subject to pathogen reduction performance standards because web posting delivers greater transparency, thereby providing the public with the tools and information it needs to make informed food safety decisions (80 FR at 3948; Jan. 26, 2015). FSIS intends to post the category status for all beef establishments subject to the pathogen reduction performance standards announced in this notice upon implementation.

FSIS currently assesses poultry establishment performance weekly based on the most recent 52-week window of FSIS sample results (83 FR 56046; Nov. 9, 2018). As explained in the November 2018 **Federal Register** notice, FSIS no longer includes follow-up sampling results when calculating an establishment's category. On or about the 20th of the month, FSIS posts the category of individual establishments producing an eligible product on the FSIS website.[22]

Should FSIS move forward with finalizing the proposed pathogen reduction performance standards for *Salmonella* in raw ground beef and beef manufacturing trimmings, FSIS would announce the final standards and an effective date in a subsequent **Federal Register** notice. About one year after the final standards go into effect, FSIS would determine individual establishment performance based on the last 48 FSIS *Salmonella* sample results and then report on the FSIS website the status of each establishment subject to the performance standards as either

[22] Individual establishment category information is posted on FSIS's website at *https://www.fsis.usda.gov/wps/portal/fsis/topics/data-collection-and-reports/microbiology/salmonella-verification-testing-program/salmonella-verification-testing-program.*

meeting or *not meeting* the particular standard using the following criteria:

Meeting. Establishments with no more than the allowable number of positive *Salmonella* sample results for that product class during the 52-week window ending the last Saturday of the previous month, based on the last 48 FSIS *Salmonella* sample results.

Not Meeting. Establishments with more than the allowable number of positive *Salmonella* sample results for that product class during the 52-week window ending the last Saturday of the previous month, based on the last 48 FSIS *Salmonella* sample results.

In the interim between the final standards becoming effective and when the status of individual establishments is posted, FSIS intends to make available monthly aggregate information relative to status (*i.e., meeting* or *not meeting* the performance standard) for all establishments subject to sampling under the final performance standards, using the most recent FSIS *Salmonella* sample results. This information will be aggregated and will not identify any specific establishment. FSIS would make this information available to give industry and other stakeholders timely information about progress being made to reduce *Salmonella* contamination in raw ground beef and beef manufacturing trimmings.

Related Agency Verification Actions

An establishment that does not meet a pathogen reduction performance standard or produces product that has been associated with an outbreak may not have adequately addressed the food safety hazard, *Salmonella,* in its HACCP system. If the establishment considers *Salmonella* reasonably likely to occur and addresses *Salmonella* in its HACCP plan, it must take corrective actions as required in 9 CFR 417.3(a). If the establishment considers *Salmonella* not reasonably likely to occur, it must take corrective actions and reassess its HACCP plan for that product to determine whether the plan needs to be modified to address *Salmonella* as a hazard (9 CFR 417.3(b)). To maintain an adequate HACCP system, the establishment may need to address the pathogen *Salmonella* in its HACCP plan, rather than through Sanitation Standard Operating Procedures (Sanitation SOPs) or another prerequisite program. Corrective actions taken in response to exceeding a pathogen reduction performance standard would need to be documented in records subject to verification by FSIS as required in 9 CFR 417.3(c)).

Consistent with FSIS inspection program personnel instructions for poultry establishments currently subject to performance standards, when a beef establishment does not meet a *Salmonella* performance standard (*i.e.,* when the number of positive samples within a specified timeframe exceeds the number of allowable positives for that product class), FSIS may initiate follow-up sampling after the establishment is first categorized as *not meeting* the performance standard to verify the adequacy of corrective actions taken by the establishment. FSIS would likely co-analyze any follow-up samples for STEC, as applicable to that product class. The follow-up samples would not count towards the samples collected as part of the moving window procedure for assessing whether the establishment meets the standards, which is consistent with FSIS procedures for poultry performance standards (83 FR at 56048). Follow-up sampling for establishments that do not meet the raw ground beef and/or beef manufacturing performance standard for an extended period of time, or that fluctuate between meeting or not meeting one or both of these performance standards, would occur at a frequency determined by FSIS.[23]

In addition, FSIS would schedule a Public Health Risk Evaluation (PHRE) for any beef establishment that (a) does not meet a *Salmonella* pathogen reduction performance standard; (b) has produced products with repetitive *Salmonella* serotypes of public health concern [24] or repetitive antibiotic-resistant *Salmonella;* and/or (c) has *Salmonella* whole-genome sequencing (WGS) and/or pulsed-field gel electrophoresis patterns matching those found in recent outbreaks or epidemiologically linked to illnesses (see FSIS Directive 5100.1 at *https://www.fsis.usda.gov/wps/wcm/connect/6c30c8b0-ab6a-4a3c-bd87-fbce9bd71001/5100.4.pdf?MOD=AJPERES*). FSIS would use the results of the PHRE to determine whether to schedule a Food Safety Assessment (FSA) [25] at the establishment.

As explained above, and also consistent with existing FSIS practices,[26] after notifying a beef establishment that it has not met a pathogen reduction performance standard, FSIS would conduct an assessment of the establishment's HACCP plan and SSOPs, through a PHRE and possible subsequent FSA, focusing on the establishment's corrective actions, HACCP plan reassessment (if applicable), and the effectiveness of the establishment's system for controlling *Salmonella* in raw beef products. In addition, when necessary, FSIS would develop a plan to verify whether the establishment implemented corrective actions. If, after 120 days from not meeting the standard, the establishment has not been able to demonstrate reduced variability of process control, as determined from FSIS's follow-up and routine sampling and from the results of the PHRE and in some cases an FSA, and the establishment has not taken corrective actions, FSIS would likely take an enforcement action, such as issuing a Notice of Intended Enforcement (NOIE) or suspending inspection, under the conditions and according to the procedures described in 9 CFR part 500. FSIS would not issue an NOIE or suspend inspection based solely on the fact that an establishment did not meet a pathogen reduction performance standard for *Salmonella.*

Although establishments producing 50,000 pounds or less of raw ground beef or beef manufacturing trimmings per day would not be subject to the proposed performance standards, FSIS would initiate follow-up sampling and/or conduct a PHRE or a FSA in these establishments when there is evidence of high levels of *Salmonella* contamination, *e.g.,* three or more positive *Salmonella* sample results within a 52-week time period, and for any of the other reasons listed above. Recognizing that these lower-volume establishments are sampled much less frequently than the higher-volume establishments, FSIS requests comments on this approach.

As previously announced, if any beef establishment produces product associated with a *Salmonella* illness outbreak identified minimally through epidemiological and/or traceback investigations, FSIS likely will consider the product to be adulterated under 21

[23] See FSIS Notice 17–19 for additional information on follow-up sampling in poultry establishments, available at *https://www.fsis.usda.gov/wps/wcm/connect/e16cfd59-8f8a-48a5-a607-999c9eecfec2/17-19.pdf?MOD=AJPERES.*

[24] Information about the 20 most frequently reported *Salmonella* serotypes reported to the CDC's Laboratory-based Enteric Disease Surveillance system is available at *https://www.cdc.gov/nationalsurveillance/pdfs/2016-Salmonella-report-508.pdf.*

[25] The purpose of an FSA is to assess and analyze an establishment's food safety system to verify that the establishment is able to produce safe and wholesome meat or poultry products in accordance with FSIS statutory and regulatory requirements.

[26] FSIS stated in a **Federal Register** notice published April 16, 2003 (68 FR 18593), that it was using *Salmonella* sample-set failures ''as an indication that there is something wrong in the establishment's HACCP system, and that the system needs to be carefully evaluated by the Agency.'' More recently, FSIS announced the same course of action for poultry products subject to pathogen reduction performance standards on February 11, 2016 (81 FR at 7288).

U.S.C. 601(m)(3) because the product is ''* * * unsound, unhealthful, unwholesome, or otherwise unfit for human food'' (77 FR at 72689; Dec. 6, 2012). In such cases, the Agency would request that the establishment recall the product if it is still in commerce. Additionally, in such situations, even if the establishment is meeting a *Salmonella* performance standard, FSIS will scrutinize its corrective actions closely and may conduct an Incident Investigation Team review (see FSIS Directive 5500.3 at *https://www.fsis.usda.gov/wps/wcm/connect/bf3095f8-c6aa-4ed7-b819-45668c05c44b/5500.3.pdf?MOD=AJPERES*).

FSIS monitors relevant databases (*e.g.,* those maintained by the CDC and the National Institutes of Health) for clinical isolates [27] that match (via WGS) food isolates obtained by FSIS in its sampling of products produced by official establishments. This monitoring gives FSIS early warning that an outbreak involving an establishment's product could be developing. FSIS may alert its public health partners if it appears there are human illness (clinical isolates) and food isolate matches indicating a potential emerging outbreak. In such situations, FSIS may also collect distribution information (*e.g.,* the consignee list) for product produced to be able to focus attention on the geographic area in which the affected product was distributed.

Cost-Benefit Analysis

FSIS has considered the economic effects of the proposed pathogen reduction performance standards for *Salmonella* in raw ground beef and beef manufacturing trimmings. The full analysis is published on the FSIS website as supporting documentation to this notice. FSIS is seeking comment on the information and assumptions used in the cost-benefit analysis. A summary of the analysis follows.

Industry Costs

Establishments would incur costs as they make changes to their processes to meet the new performance standards. FSIS predicts that approximately 18 percent of the higher-volume raw ground beef establishments (about 14 establishments) and 20 percent of the higher-volume beef manufacturing trimmings establishments (about 10 establishments) would not initially meet the standards. As discussed above, higher-volume establishments produce more than 50,000 pounds of that particular product per day.

Some establishments that initially do not meet the performance standards but aspire to do so would need to make changes to their production processes to lower the prevalence of *Salmonella* in their products. For example, affected establishments may conduct *Salmonella* sampling, apply antimicrobial interventions (including purchasing necessary capital equipment), reassess their HACCP plans and/or conduct training. FSIS expects that higher-volume raw ground beef and beef manufacturing trimmings establishments would be most likely to begin collecting samples for *Salmonella* testing in an effort to assure they would meet the updated or new performance standards. As an example, if the establishment currently collects samples to test for other pathogens, the establishment may begin including testing for *Salmonella* in its current sampling programs. Or, if the establishment does not currently collect any samples for pathogen testing, the establishment may begin collecting samples for *Salmonella* testing.

Based on available information, FSIS expects that beef manufacturing trimmings establishments subject to the performance standard would be most likely to add antimicrobial interventions and equipment to their production process to meet the performance standard.

FSIS estimates that not all establishments would make changes after not meeting the performance standards. For those establishments initially not meeting the performance standards, FSIS assumes approximately 50 percent would start making changes after one year and eventually would meet the standards in two years by making changes to their production process. To ensure a conservative cost estimate, FSIS assumes that those establishments making changes to their production processes would validate those changes and conduct employee training. For HACCP re-assessment, FSIS assumes that all establishments (100 percent) that do not meet the standard will re-assess their HACCP plan. These costs are summarized and annualized over 10 years at a discount rate of 7 percent in Table 2.

TABLE 2—INDUSTRY COSTS ANNUALIZED

Cost component	Low estimate	Primary estimate	High estimate
Capital Equipment	$1,002	$1,002	$1,002
Antimicrobial Intervention	147,998	147,998	147,998
Sampling	3,393,114	3,393,114	3,393,114
HACCP Reassessment	10,781	21,562	32,344
Employee Training	2,701	2,701	2,701
Total Costs *	3,555,596	3,556,377	3,577,159

Agency Costs

FSIS does not expect the Agency to incur any budgetary impacts as a result of implementing the new or updated performance standards. FSIS intends to implement the two major components of the performance standards, product sampling/testing and follow-up actions, in such a way that they are resource neutral. At this time, FSIS is not expanding the overall number of samples it would analyze or collect. Instead, it would reallocate samples from lower-volume beef establishments. Moreover, since FSIS has already transitioned to continuous sampling for *Salmonella* in beef manufacturing trimmings and in raw ground beef, the number of samples FSIS would collect and analyze after the performance standard is implemented would remain the same. FSIS would not need to invest in additional laboratory equipment or additional personnel.

The resources required for follow-up actions, namely PHREs, which may lead to FSAs, would also remain unchanged because very few establishments are expected to continue to not meet the

[27] In microbiology, the term ''isolates'' refers to strains of microorganisms isolated for study.

performance standards. In addition, in 2015, the FSA methodology was updated to include a PHRE. The PHRE is a remote evaluation performed by FSIS personnel to determine if an establishment's food safety system is effective. Information learned during the PHRE would be used to determine if an onsite FSA is warranted. FSIS personnel have been able to evaluate a greater number of establishments under the updated FSA methodology. FSIS intends to maintain its current FSA scheduling protocol, which combines risk-based and routine PHREs.

Benefits

As beef establishments subject to the proposed performance standards make changes to their production processes and reduce the prevalence of *Salmonella* in raw ground beef and beef manufacturing trimmings, public health benefits would be realized in the form of averted illnesses. As discussed in the 2019 Risk Assessment, FSIS estimated the annual *Salmonella* foodborne illnesses associated with beef products. FSIS then estimated the number of annual illnesses attributed to products under the updated or new performance standards. Finally, FSIS estimated the number of illnesses averted if 50 percent of the establishments that do not meet the standards, meet the standards over the course of two years. Additionally, FSIS estimated the cost savings associated with the percentage reduction in human illnesses as calculated in the 2019 Risk Assessment. The estimated public health benefits from the illnesses averted as a result of the proposed *Salmonella* beef performance standards are summarized and annualized over 10 years at a discount rate of 7 percent in Table 3.

TABLE 3—PUBLIC HEALTH BENEFITS ANNUALIZED

Product	Percentage of establishments initially not meeting the standards, but then meet the standards over 2 years	Averted illnesses due to *salmonella*	Cost of illness *
Raw Ground Beef and Beef Manufacturing Trimmings.	50	8,900	$29,265,796.
		(2,000–20,000) (5th–95th percentile)	($6,576,583–$65,765,834).

* Cost of Illness annualized at a discount rate of 7% over 10 years, occurring one year after establishments would begin making changes.

Industry Benefits

FSIS expects that industry would benefit from reduced *Salmonella* outbreak-related recalls. The negative impacts of recalls on industry include the loss of sales revenue, the cost to dispose of recalled products, and the loss of consumer confidence and business reputation. Recalls negatively impact consumers by creating anxiety and time-consuming inconveniences (*e.g.,* looking for recall information, checking products purchased to determine if they are part of the recall, returning or disposing of products identified by the recalls, and so on).

FSIS expects the raw ground beef and beef manufacturing trimmings performance standards would lead to less contaminated products, because of industry actions taken to reduce *Salmonella* in products to meet the performance standards. The reduction in *Salmonella* would result in less exposure to the consumers that eat beef products and fewer illnesses, outbreaks and recalls.

Summary of Net Benefits

Table 4 displays the total costs and benefits expected from the implementation of the performance standards for beef manufacturing trimmings and raw ground beef. FSIS annualized all values over 10 years at a 7 percent discount rate.

TABLE 4—SUMMARY OF ESTIMATED NET BENEFITS

Compliance rate for establishments initially not meeting the standard	Cost/benefit component	Low estimate ($mil)	Primary estimate ($mil)	High estimate ($mil)
50%	Industry Costs	3.56	3.57	3.58
	Public Health Benefits	6.58	29.27	65.77
	Net Benefits	3.02	25.70	62.19

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication online through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will announce and provide a link to it through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC.

Carmen M. Rottenberg,

Administrator.

[FR Doc. 2019–23473 Filed 10–25–19; 8:45 am]

BILLING CODE 3410–DM–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

TIME AND DATE: October 30, 2019, 11:00 a.m. EDT.

PLACE: U.S. Chemical Safety and Hazard Investigation Board, 1750 Pennsylvania Ave. NW, Suite 910, Washington, DC 20006.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Chemical Safety and Hazard Investigation Board (CSB) will convene a public meeting on Wednesday, October 30, 2019, at 11:00 a.m. EDT in Washington, DC, at the CSB offices located at 1750 Pennsylvania Avenue NW, Suite 910. The Board will discuss open investigations, the status of audits from the Office of the Inspector General, and financial and organizational updates. There will also be a presentation on the ongoing CSB investigation into the March 17, 2019, Intercontinental Terminal Company (ITC) Tank Fire which occurred in Deer Park, TX.

Additional Information

The meeting is free and open to the public. If you require a translator or interpreter, please notify the individual listed below as the **CONTACT PERSON FOR FURTHER INFORMATION**, at least three business days prior to the meeting.

A conference call line will be provided for those who cannot attend in person. Please use the following dial-in number to join the conference:

1 (888) 424–8151—Audience US Toll Free

1 (847) 585–4422—Audience US Toll

Audience Passcode: 9387 018

The CSB is an independent federal agency charged with investigating incidents and hazards that result, or may result, in the catastrophic release of extremely hazardous substances. The agency's Board Members are appointed by the President and confirmed by the Senate. CSB investigations look into all aspects of chemical accidents and hazards, including physical causes, such as equipment failure, as well as inadequacies in regulations, industry standards, and safety management systems.

Public Comment

The time provided for public statements will depend upon the number of people who wish to speak. Speakers should assume that their presentations will be limited to three minutes or less, but commenters may submit written statements for the record.

CONTACT PERSON FOR FURTHER INFORMATION: Hillary Cohen, Communications Manager, at *public@csb.gov* or (202) 446–8094. Further information about this public meeting can be found on the CSB website at: *www.csb.gov.*

(Authority: 5 U.S.C. 552b)

Dated: October 1, 2019.

Raymond C. Porfiri,

Deputy General Counsel, Chemical Safety and Hazard Investigation Board.

[FR Doc. 2019–23545 Filed 10–24–19; 11:15 am]

BILLING CODE 6350–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Minnesota Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Minnesota Advisory Committee (Committee) to the Commission will be held at 6:00 p.m. CDT Tuesday November 12, 2019 to conduct a community forum in St. Paul, Minnesota for the topic of Racial Trauma.

DATES: The meeting will be held on Tuesday November 12, 2019, at 6:00 p.m. CDT.

ADDRESSES: Comunidades Latinas Unidas en Servicio (CLUES), 797 East 7th Street, St. Paul, MN 55106. Public Call Information: Dial: 800–367–2403; Conference ID: 2628752.

FOR FURTHER INFORMATION CONTACT: David Barreras at *dbarreras@usccr.gov* or (312) 353–8311.

SUPPLEMENTARY INFORMATION: This meeting is available to the public at the above address and through the above toll-free call-in number. Any interested member of the public may attend the meeting or call the number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the U.S. Commission on Civil Rights, Regional Programs Unit, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may be faxed to the Commission at (312) 353–8324 or emailed to David Barreras at *dbarreras@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting on the Federal Advisory Committee database (*facadatabase.gov*), under the Minnesota Advisory Committee link. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above phone number, email, or street address.

Agenda

I. Welcome
II. Discussion: Racial Trauma and Civil Rights
III. Public Comment
IV. Adjournment

Dated: October 22, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–23432 Filed 10–25–19; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Maryland Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Maryland Advisory Committee to the Commission will convene by conference call at 1:00 p.m. (EST) on Wednesday, November 13, 2019. The purpose of the meeting is to discuss possible post-report actions for release of the Committee's school discipline report.

DATES: Wednesday, November 13, 2019, at 1:00 p.m. (EST)

ADDRESSES: Public Call-In Information: Conference call-in number: 1–800–367–2403 and conference ID: 3030243.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1–800–367–2403 and conference ID: 3030243. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call-in number: 1–800–367–2403 and conference ID: 3030243.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzloAAA,* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone numbers, email or street address.

Agenda

Wednesday, November 13, 2019 at 1:00 p.m. (EST)

- Rollcall
- Discussion of Next Steps for Distribution of School Discipline Report
- Open Comment
- Adjournment

Dated: October 22, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–23433 Filed 10–25–19; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Delaware Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the Delaware Advisory Committee to the Commission will convene by conference call, on Monday, November 18, 2019 at 4:00 p.m. (EST). The purpose of the meeting is to discuss and vote to submit the Committee's civil rights project report on implicit bias and policing in communities of color in Delaware to the Staff Director for publication on the agency's website.

DATES: Monday, November 18, 2019 at 4:00 p.m. (EST).

Public Call-In Information: Conference call number: 1–866–556–2429 and conference call ID: 4512490.

FOR FURTHER INFORMATION CONTACT: Ivy L. Davis, at *ero@usccr.gov* or by phone at 202–376–7533

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1–866–556–2429 and conference call ID: 4512490. Please be advised that before placing them into the conference call, the conference call operator may ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number herein.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call number: 1–866–556–2429 and conference call ID: 4512490.

Members of the public are invited make statements during the Public Comment section of the meeting or to submit written comments; the written comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC

20425 or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing, as they become available at: *https://gsageo.force.com/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzlEAAQ,* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda: Monday, November 18, 2019 at 4:00 p.m. (EST)

I. Welcome and Roll Call
II. Project Planning
—Discuss and Vote to Submit Civil Rights Project Report to the Staff Director
III. Other Business
IV. Public Comment
V. Next Meeting
VI. Adjourn

Dated: October 23, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–23449 Filed 10–25–19; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the South Carolina Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights and the Federal Advisory Committee Act that the South Carolina Advisory Committee will hold a meeting on Wednesday, November 13, 2019, the purpose of the meeting is to discuss civil right issues in the state and introduction of the newly appointed chair and members to the Committee.

DATES: The meeting will be held on Wednesday, November 13, 2019 at 4:00 p.m. EST.

ADDRESSES: The meeting will be by teleconference. Toll-free call-in number: 1–800–353–6461, conference ID: 8532270.

FOR FURTHER INFORMATION CONTACT: Barbara Delaviez at *bdelaviez@usccr.gov* or 1–202–376–8473.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference operator will ask callers to identify themselves, the organizations they are affiliated with (if any), and an email address prior to placing callers into the conference call. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Program Unit Office, U.S. Commission on Civil Rights, 230 S. Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Regional Program Unit Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Program Unit, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, South Carolina Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Program Unit at the above email or street address.

Agenda

Welcome and Roll Call
Introduction of Newly Appointed Chair and Members to the Committee
Discuss Civil Issues in the State
Next Steps
Public Comment
Adjournment

Dated: October 22, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–23431 Filed 10–25–19; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Jersey Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the New Jersey Advisory Committee to the Commission will convene by conference call, on Friday, November 15, 2019 at 11:30 a.m. (EST). The purpose of the meeting is to discuss and vote on the project proposal for the Committee's civil rights project on the collateral consequences of a criminal record on forfeiture of private property and access to professional licenses.

DATES: Friday, November 15, 2019, at 11:30 a.m. (EST).

Public Call-In Information: Conference call number: 1–800–667–5617 and conference call ID number: 7386659.

FOR FURTHER INFORMATION CONTACT: Ivy L. Davis, at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1–800–667–5617 and conference call ID number: 7386659. Please be advised that before placing them into the conference call, the conference call operator may ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number herein.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call number:1–800–667–5617and conference call ID number: 7386659.

Members of the public are invited to make statements during the Public

Comment section of the meeting or to submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing, as they become available at: *https://gsageo.force.com/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzjVAAQclick* the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda

Friday, November 15, 2019 at 11:30 a.m. (EST)

I. Welcome and Roll Call
II. Planning Meeting
—Discuss and Vote on the Civil Rights Project Proposal
—Discuss Plans for Scheduling the Project Briefing Meeting
III. Other Business
IV. Next Meeting
V. Public Comment
VI. Adjourn

Dated: October 23, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–23448 Filed 10–25–19; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Illinois Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights and the Federal Advisory Committee Act that the Illinois Advisory Committee will hold a meeting on Tuesday, November 12, 2019, at 12:00 p.m. Central Time for the purpose of discussing the Committee's project on fair housing issues.

DATES: The meeting will be held on Tuesday, November 12, 2019, at 12:00 p.m. Central Time.

ADDRESSES: Public Call Information: Dial: 800–367–2403, Conference ID: 1501722.

FOR FURTHER INFORMATION CONTACT: David Barreras, Designated Federal Official, at *dbarreras@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public may listen to the discussion. This meeting is available to the public through the call in information listed above. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement to the Committee as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the U.S. Commission on Civil Rights, 230 South Dearborn St., Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324 or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Chicago Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Chicago office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Illinois Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Chicago Office at the above email or street address.

Agenda

I. Welcome and Roll Call
II. Discussion of Briefing Report on Fair Housing Issues
A. Introduction of newly appointed chair and members to the Committee
B. Materials in the record and summaries of testimony
C. Structure of briefing report
D. Discussion of themes and recommendations
IV. Public Comment
V. Next Steps
VI. Adjournment

Dated: October 22, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–23410 Filed 10–25–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Environmental Technologies Trade Advisory Committee (ETTAC) Public Meeting

AGENCY: International Trade Administration, DOC.

ACTION: Notice of an open meeting of a Federal Advisory Committee.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the Environmental Technologies Trade Advisory Committee (ETTAC).

DATES: The meeting is scheduled for November 19, 2019, from 8:45 a.m. to 3:30 p.m. Eastern Daylight Time (EDT). The deadline for members of the public to register or to submit written comments for dissemination prior to the meeting is 5:00 p.m. EDT on Friday, November 8, 2019. The deadline for members of the public to request auxiliary aids is 5:00 p.m. EDT on Friday, November 8, 2019.

ADDRESSES: The meeting will take place in the Research Library at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230. To register and obtain call-in information, submit comments, or request auxiliary aids, please contact: Ms. Amy Kreps, Office of Energy & Environmental Industries (OEEI), International Trade Administration, Room 28018, 1401 Constitution Avenue NW, Washington, DC 20230 or email: *amy.kreps@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Amy Kreps, Office of Energy &

Environmental Industries (OEEI), International Trade Administration, Room 28018, 1401 Constitution Avenue NW, Washington, DC 20230 (Phone: 202–482–3835; Fax: 202–482–5665; email: *amy.kreps@trade.gov*).

SUPPLEMENTARY INFORMATION: The meeting will take place on November 19, 2019, from 8:45 a.m. to 3:30 p.m. EDT. The general meeting is open to the public, and time will be permitted for public comment from 3:00–3:30 p.m. EDT. Members of the public seeking to attend the meeting are required to register in advance. Those interested in attending must provide notification by Friday, November 8, at 5:00 p.m. EDT, via the contact information provided above. This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to OEEI at (202) 482–3835 no less than one week prior to the meeting. Requests received after this date will be accepted, but it may not be possible to accommodate them.

Written comments concerning ETTAC affairs are welcome any time before or after the meeting. To be considered during the meeting, written comments must be received by Friday, November 8, 2019, at 5:00 p.m. EDT to ensure transmission to the members before the meeting. Minutes will be available within 30 days of this meeting.

Topics to be considered: During the November 19 meeting, which is the fourth in-person meeting of the current charter term, the ETTAC will receive briefings from ITA as well as the interagency and will discuss its priorities and objectives for potential recommendations to the interagency through the Secretary of Commerce. Topics to be considered during the afternoon subcommittee breakout sessions will fall under the three themes of Trade Policy and Trade Negotiations, Trade Promotion and Export Market Development, and Cooperation on Standards, Certifications and Regulations. OEEI will make the final agenda available to the public one week prior to the meeting. Please email *amy.kreps@trade.gov* or contact 202–482–3835 for a copy.

Background: The ETTAC is mandated by Section 2313(c) of the Export Enhancement Act of 1988, as amended, 15 U.S.C. 4728(c), to advise the Environmental Trade Working Group of the Trade Promotion Coordinating Committee, through the Secretary of Commerce, on the development and administration of programs to expand U.S. exports of environmental technologies, goods, services, and products. The ETTAC was most recently re-chartered through August 16, 2020.

Dated: October 21, 2019.

Amy Kreps,

Designated Federal Officer, ETTAC.

[FR Doc. 2019–23460 Filed 10–25–19; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Meeting of the Civil Nuclear Trade Advisory Committee

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the Civil Nuclear Trade Advisory Committee (CINTAC).

DATES: The meeting is scheduled for Tuesday, November 12, 2019, from 8:30 a.m. to 4:00 p.m. Eastern Standard Time (EST). The deadline for members of the public to register to participate, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5:00 p.m. Eastern Standard Time (EST) on Thursday, November 7, 2019.

ADDRESSES: The meeting will be held at the U.S. Department of Commerce, Herbert C. Hoover Building, Commerce Research Library, 1401 Constitution Ave. NW, Washington, DC 20230. Requests to register to participate (including to speak or for auxiliary aids) and any written comments should be submitted to: Mr. Devin Horne, Office of Energy & Environmental Industries, International Trade Administration, Room 28018, 1401 Constitution Ave. NW, Washington, DC 20230. (Fax: 202–482–5665; email: *devin.horne@trade.gov*). Members of the public are encouraged to submit registration requests and written comments via email to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT: Mr. Devin Horne, Office of Energy & Environmental Industries, International Trade Administration, Room 28018, 1401 Constitution Ave. NW, Washington, DC 20230. (Phone: 202–482–0775; Fax: 202–482–5665; email: *devin.horne@trade.gov*).

SUPPLEMENTARY INFORMATION:

Background: The CINTAC was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.), in response to an identified need for consensus advice from U.S. industry to the U.S. Government regarding the development and administration of programs to expand United States exports of civil nuclear goods and services in accordance with applicable U.S. laws and regulations, including advice on how U.S. civil nuclear goods and services export policies, programs, and activities will affect the U.S. civil nuclear industry's competitiveness and ability to participate in the international market.

The Department of Commerce renewed the CINTAC charter on August 10, 2018. This meeting is being convened under the sixth charter of the CINTAC.

Topics to be considered: The agenda for the Tuesday, November 12, 2019 CINTAC meeting is as follows:

Closed Session (8:30 a.m.–3:00 p.m.)—Discussion of matters determined to be exempt from the provisions of the Federal Advisory Committee Act relating to public meetings found in 5 U.S.C. App. (10)(a)(1) and 10(a)(3).

Public Session (3:00 p.m.–4:00 p.m.)—Opportunity to Hear from Members of the Public.

Members of the public wishing to attend the public session of the meeting must notify Mr. Devin Horne at the contact information above by 5:00 p.m. EST on Thursday, November 7, 2019 in order to pre-register to participate. Please specify any requests for reasonable accommodation at least five business days in advance of the meeting. Last minute requests will be accepted but may not be possible to fill. A limited amount of time will be available for brief oral comments from members of the public attending the meeting. To accommodate as many speakers as possible, the time for public comments will be limited to two (2) minutes per person, with a total public comment period of 60 minutes. Individuals wishing to reserve speaking time during the meeting must contact Mr. Horne and submit a brief statement of the general nature of the comments and the name and address of the proposed participant by 5:00 p.m. EST on Thursday, November 7, 2019. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, ITA may conduct a lottery to determine the speakers.

Any member of the public may submit written comments concerning the CINTAC's affairs at any time before and after the meeting. Comments may be submitted to the Civil Nuclear Trade

Advisory Committee, Office of Energy & Environmental Industries, Room 28018, 1401 Constitution Ave. NW, Washington, DC 20230. For consideration during the meeting, and to ensure transmission to the Committee prior to the meeting, comments must be received no later than 5:00 p.m. EST on Thursday, November 7, 2019. Comments received after that date will be distributed to the members but may not be considered at the meeting.

Copies of CINTAC meeting minutes will be available within 90 days of the meeting.

Dated: October 22, 2019.

Devin Horne,

Designated Federal Officer, Office of Energy and Environmental Industries.

[FR Doc. 2019–23462 Filed 10–25–19; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

America Crece Industry Roundtable and Request for Public Comment

AGENCY: International Trade Administration, Commerce.

ACTION: Request for public comments and notice of a roundtable discussion on energy and other infrastructure opportunities in Latin America and the Caribbean under the *America Crece* initiative.

SUMMARY: The International Trade Administration (ITA) of the Department of Commerce seeks individual comments from industry on government programs aimed at catalyzing U.S. private sector participation in commercial opportunities in energy and other infrastructure in Latin America and the Caribbean (LAC). Through this notice, ITA announces a request for written public comments and announces a roundtable discussion with industry representatives and U.S. government staff. This notice serves as an initial step in improving ITA's understanding of private sector interests and programmatic and policy needs in energy and other infrastructure sectors in the LAC region under the new *America Crece* initiative. This notice further sets forth topics for discussion and comment.

DATES:

Event: The roundtable will be held on November 7, 2019 from 9:30 a.m. to 12:30 p.m., Eastern Daylight Time.

Written Comments: To be ensured of consideration, written public comments must be received on or before November 22, 2019. Comments should not include any business confidential information.

Event Registration: ITA will evaluate registrations based on the submitted information (see below) and inform applicants of selection decisions, which will be made on a rolling basis until 30 participants have been selected.

ADDRESSES:

Event: The roundtable will be held at the Department of Commerce, Commerce Research Library, 1401 Constitution Ave. NW, Washington, DC 20230.

Comments: Written comments should be sent by electronic mail addressed to *AmericaCreceOutreach@trade.gov.* Comments may also be submitted by mail addressed to: *Attn:* America Crece, Deputy Assistant Secretary for the Western Hemisphere, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Ave. NW, Room 30019, Washington, DC 20230. Although comments may be submitted by mail, ITA prefers to receive comments via electronic mail.

For alternatives to online or mail submissions, please contact Christian Herman, International Trade Specialist, ITA, at (202) 482–5430.

FOR FURTHER INFORMATION CONTACT: *AmericaCreceOutreach@trade.gov* or Christian Herman, International Trade Specialist, ITA, at (202) 482–5430.

SUPPLEMENTARY INFORMATION: In 2018, the government of the United States launched the *America Crece* (Growth in the Americas) initiative to foster coordinated, whole-of-government efforts in support of all U.S. energy and infrastructure engagement in the LAC region. This request for comment and event notification seeks public comment on priorities and strategies to enhance commercial engagement in energy and other infrastructure in the LAC region through programs under the umbrella of the *America Crece* initiative.

The Department seeks individual input and views at the November 7, 2019 roundtable regarding the LAC region, including the following topics:

- The principal foreign regulatory and policy barriers to growing sales and exports to the LAC region and how to prioritize these barriers for USG engagement.
- The principal foreign barriers to investment in the energy and infrastructure sectors in LAC countries.
- The challenges U.S. companies face in seeking and/or providing competitive financing for projects in the LAC region.
- Proactive solutions or actions that the U.S. government could pursue that would have an impact on catalyzing U.S. private sector participation in commercial opportunities in LAC.
- Insights from working with USG agencies—such as State, Commerce, Treasury, Energy, USTDA, EXIM, OPIC, USAID—in doing business in LAC, including assessments of the strengths and weaknesses of the U.S. government tools to promote U.S. businesses in the energy and infrastructure sectors in LAC countries.

Event: The November 7, 2019 roundtable will provide an overview of the *America Crece* initiative and will include a discussion session during which participants will provide insights and feedback related to the initiative and energy and infrastructure in the LAC region. Due to limited space, the event is closed to press and observers. Industry participation is limited to 30 qualifying industry representatives.

Selection

To attend, participants should submit the below information to *AmericaCreceOutreach@trade.gov* by November 1, 2019. I&A will evaluate registrations based on the submitted information (and based on the criteria below) on a rolling basis until 30 participants have been selected and inform applicants of selection decisions.

Applicants are encouraged to send representatives at a sufficiently senior level to be knowledgeable about their organization's capabilities, interests and challenges in the LAC region.

Registrations should include the following information in their registration email:

- Name of attendee and short bio.
- Organization and brief organization description.
- A statement self-certifying how the organization meets each of the following criteria:

1. It is not majority owned by a foreign government entity (or entities).
2. Its existing products or services are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have demonstrable U.S. content as a percentage of the value of the finished product or service and/or it is a major investor in projects in LAC in which companies with such products may compete.
3. It has already exported from the United States to or invested in the LAC region.
4. In the case of a trade association, academic or research institution, the applicant will only be representing companies during the Roundtable that satisfy each of the criteria above.

Selection will be based on the following criteria:

- Suitability of the company's (or in the case of another organization, represented companies' or constituents')

existing products or services to commercial opportunities in the energy and infrastructure sectors in the LAC region.

• Suitability of the company's (or in the case of another organization, represented companies' or constituents') experience pursuing commercial opportunities in the LAC region.

• Suitability of the representative's position and biography to be able to engage in the conversation.

Dated: October 22, 2019.

Man Cho,

Deputy Director, Office of Energy and Environmental Industries.

[FR Doc. 2019–23463 Filed 10–25–19; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Availability of a Draft Revised Management Plan for the North Carolina National Estuarine Research Reserve

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of availability of a draft revised management plan; request for comments.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is soliciting comments from the public on a draft revised management plan for the North Carolina National Estuarine Research Reserve. The revision of the existing plan is necessitated by the applicable requirements of the National Estuarine Research Reserve System. The North Carolina Research Reserve revised plan is intended to replace the plan approved in 2009.

DATES: Comments must be received at the appropriate address (see **ADDRESSES**) on or before November 27, 2019.

ADDRESSES: Copies of the draft management plan can be downloaded or viewed on the internet at *https://deq.nc.gov/about/divisions/coastal-management/nc-coastal-reserve/about-reserve/management-plans/review-2020.* The document is also available by sending a written request to the point of contact identified below (see **FOR FURTHER INFORMATION**).

You may submit comments on this draft Management Plan by any of the following methods:

Electronic Submission: Submit all electronic public comments by email to *Steph.Robinson@noaa.gov.*

Mail: Submit written comments to Stephanie Robinson, Office for Coastal Management, 2234 South Hobson Avenue, Charleston, SC 29405.

Comments submitted by any other method or after the comment period may not be considered. All comments are a part of the public record and may be publicly accessible. Any personal identifying information (*e.g.,* name, address) submitted voluntarily by the sender may also be accessible. NOAA will accept anonymous comments.

FOR FURTHER INFORMATION CONTACT: Stephanie Robinson of NOAA's Office for Coastal Management by email at *Steph.Robinson@noaa.gov,* phone at (843) 740–1174, or mail at Office for Coastal Management, 2234 South Hobson Avenue, Charleston, SC 29405.

SUPPLEMENTARY INFORMATION: Pursuant to 15 CFR 921.33(c), a state must revise its reserve management plan at least every five years. The North Carolina National Estuarine Research Reserve revised plan will replace the plan previously approved in 2009.

The revised management plan outlines a strategic plan; administrative structure; research and monitoring, education, stewardship, wetland science, and training programs of the reserve; resource protection and manipulation plans; restoration management plan; public access and visitor use plan; consideration for future land acquisition; and facility development to support reserve operations. This plan will focus on inspiring target audiences to protect coastal and estuarine ecosystems through training and education programs; advancing understanding of coastal and estuarine ecosystems and informing coastal management through research and monitoring; contributing to the study and appreciation of coastal and estuarine ecosystems through the stewardship of protected sites; and gaining recognition of the reserve in coastal and estuarine ecosystem research, training, education, and stewardship through effective administration and communication strategies.

Since 2009, the reserve has completed its habitat map and added marsh vegetation and surface elevation monitoring; conducted a habitat vulnerability assessment to understand marsh vulnerability; led a number of research and training initiatives related to living shorelines; increased education programming at the Masonboro Island component of the reserve; begun implementing Teachers on the Estuary (TOTE) training; expanded use of volunteers to conduct citizen science regarding sensitive species and site conditions; and implemented training focused on informing real estate professionals of coastal issues. The revised management plan will serve as the guiding document for the 10,568-acre research reserve for the next five years.

NOAA's Office for Coastal Management will conduct an environmental analysis in accordance with the National Environmental Policy Act on the proposed approval of the reserve's revised management plan. The public is invited to provide comment or information about any potential environmental impacts of the proposed action, and these comments will be used to inform NOAA's decision on whether to approve the revised management plan.

Authority: 16 U.S.C. 1451 *et seq.*

Keelin S. Kuipers,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2019–23465 Filed 10–25–19; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV118

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Ecosystem and Ocean Planning (EOP) Committee will hold a meeting.

DATES: The meeting will be held on Wednesday, November 13, 2019, from 9 a.m. through 12 p.m. See **SUPPLEMENTARY INFORMATION** for agenda details.

ADDRESSES: The meeting will take place over webinar with a telephone-only connection option. Details on how to connect to the webinar by computer and by telephone will be available at: *http://www.mafmc.org.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901;

telephone: (302) 674–2331; website: *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is for the EOP Committee to review and provide feedback on an updated draft summer flounder conceptual model, supporting data availability and draft management questions. The development of the summer flounder conceptual model is part of the Council's Ecosystem Approach to Fisheries Management (EAFM) decision framework and considers the high priority risk factors affecting summer flounder and its fisheries. The EOP Committee reviewed an earlier draft model in September 2019 and provided a number of recommendations for the technical workgroup to consider and address in a revised model. The EOP Committee will review these updates and develop recommendations for full Council consideration at the December 2019 Council meeting. A detailed agenda and background documents will be made available on the Council's website (*www.mafmc.org*) prior to the meeting.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 23, 2019.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019–23447 Filed 10–25–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Availability of a Draft Environmental Assessment and Public Comment for a Proposed Boundary Expansion for the Elkhorn Slough National Estuarine Research Reserve

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of proposed boundary expansion and availability of a draft environmental assessment; request for comments.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is considering a request to amend the boundary of the Elkhorn Slough National Estuarine Research Reserve (Elkhorn Slough NERR or the Reserve) and is soliciting comments from the public on the proposed boundary expansion. The public is also invited to comment on the draft environmental assessment for the proposed boundary expansion. Any person wishing to comment on the proposed boundary expansion or the environmental assessment may submit comments as described under **ADDRESSES** below.

DATES: Written comments must be received at the appropriate address (see **ADDRESSES**) on or before November 27, 2019.

ADDRESSES: The draft environmental assessment can be downloaded or viewed at *coast.noaa.gov/czm/compliance/.* The document is also available by sending a written request to the point of contact identified below (see **FOR FURTHER INFORMATION**).

You may submit comments by any of the following methods:

Electronic Submission: Submit all electronic public comments by email to *Elaine.Vaudreuil@noaa.gov.*

Mail: Submit written comments to Elaine Vaudreuil, Office for Coastal Management, NOAA Ocean Service, 1305 East-West Hwy., N/OCM, Silver Spring, MD 20910.

Comments submitted by any other method or after the comment period may not be considered. All comments are a part of the public record and may be publicly accessible. Any personal identifying information (*e.g.,* name, address) submitted voluntarily by the sender may also be accessible. NOAA will accept anonymous comments.

FOR FURTHER INFORMATION CONTACT: Elaine Vaudreuil of NOAA's Office for Coastal Management, by email at *Elaine.Vaudreuil@noaa.gov,* phone at 240–533–0821, or mail at: 1305 East-West Hwy., N/OCM, Silver Spring, MD 20910

SUPPLEMENTARY INFORMATION:

I. Background

The California Department of Fish and Wildlife, as lead agency for managing the Elkhorn Slough NERR, has requested approval to expand the geographic boundary of the Reserve by adding nine new parcels to and removing a 13.98-acre area from the existing approved boundary. Pursuant to 15 CFR 921.33(a), NOAA may require public notice, including notice in the **Federal Register** and an opportunity for public comment before approving a boundary or management plan change. In addition, boundary changes involving the acquisition of properties not listed in the reserve's original management plan or final environmental impact statement (EIS) require public notice and the opportunity for comment. Five of the new parcels were included in the reserve's original EIS (1979). However, since four of the new parcels were not evaluated in the original EIS, NOAA has developed an environmental assessment to analyze the potential effects of the requested change to the Reserve boundary and is publishing notice of the availability of this assessment for public review and comment on the proposed boundary expansion and associated environmental assessment.

II. NOAA Proposed Action and Alternatives

NOAA is releasing a draft environmental assessment, prepared in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, 42 U.S.C. 4321 *et seq.,* and the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1500–1508). NOAA's proposed action is to approve a change in the management boundary of the Elkhorn Slough NERR to add nine parcels (totaling 313.753 acres) acquired since 2007 and remove one 13.98-acre parcel from the approved boundary.

The draft environmental assessment identifies and assesses potential environmental impacts associated with the proposed boundary expansion, and identifies a preferred alternative and a no action alternative. The preferred alternative would add five parcels identified for future acquisition at the time of the reserve's designation in 1979, along with four additional parcels. It would also remove from the current Reserve boundary a 13.98-acre area containing a non-conforming use, which would result in a net increase in size of 299.773 acres. NOAA anticipates that the preferred alternative would (1) provide additional buffer around the reserve's core areas, (2) enable the reserve to manage the significant habitats on those properties, and where possible, restore habitats for the benefit of key species in the Elkhorn Slough watershed, and (3) expand research and education activities to the adjacent Moro Cojo Slough within the reserve's watershed. Therefore, NOAA prefers the proposed boundary expansion over the no action alternative.

Authority: 16 U.S.C. 1431 *et seq.*

Keelin S. Kuipers,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2019–23466 Filed 10–25–19; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV117

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council's (MAFMC's) Summer Flounder, Scup, and Black Sea Bass Monitoring Committee and Bluefish Monitoring Committee will hold a public meeting.

DATES: The two Monitoring Committees will hold back to back meetings on Wednesday, November 13 and Thursday, November 14, 2019. The Summer Flounder, Scup, and Black Sea Bass Monitoring Committee meeting will be held from 1 p.m. until 5 p.m. on Wednesday, November 13, 2019, and on Thursday, November 14, 2019, from 9 a.m. to 11:30 a.m. The Bluefish Monitoring Committee will meet from 1 p.m. until 4 p.m. on Thursday, November 14, 2019. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES:

Meeting address: The meeting will be held at the Hilton Garden Inn Baltimore Inner Harbor, 625 S President St., Baltimore, MD 21202; telephone: (410) 234–0065.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Summer Flounder, Scup, and Black Sea Bass Monitoring Committee and the Bluefish Monitoring Committee will meet to develop recommendations for 2020 recreational management measures (*i.e.,* possession limits, fish size limits, and/or open and closed seasons) for summer flounder, scup, black sea bass, and bluefish. For summer flounder, the Monitoring Committee will consider the use of coastwide measures or conservation equivalency and associated management measures. For black sea bass, the Monitoring Committee will consider the use of federal waters measures or conservation equivalency and associated management measures. For scup and bluefish, the respective Monitoring Committees will consider federal waters management measures and may discuss approaches to state waters measures, which will likely be considered by the Atlantic States Marine Fisheries Commission in early 2020. This will be an in-person meeting, but a listen-only webinar connection option will be available. Meeting materials will be posted to *http://www.mafmc.org/council-events/2019/sfsbsb-mc-nov-13-14.*

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: October 23, 2019.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019–23446 Filed 10–25–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV114

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) and its advisory entities will hold public meetings.

DATES: The Pacific Council and its advisory entities will meet November 14–20, 2019. The Pacific Council meeting will begin on Friday, November 15, 2019 at 8 a.m. Pacific Standard Time (PST), reconvening at 8 a.m. each day through Wednesday, November 20, 2019. All meetings are open to the public, except a closed session will be held from 8 a.m. to 9 a.m., Friday, November 15 to address litigation and personnel matters. The Pacific Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES:

Meeting address: Meetings of the Pacific Council and its advisory entities will be held at the Hilton Orange County/Costa Mesa Hotel, 3050 Bristol Street, Costa Mesa, CA; telephone: (714) 540–7000.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

Instructions for attending the meeting via live stream broadcast are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, Executive Director; telephone: (503) 820–2280 or (866) 806–7204 toll-free; or access the Pacific Council website, *http://www.pcouncil.org* for the current meeting location, proposed agenda, and meeting briefing materials.

SUPPLEMENTARY INFORMATION: The November 14–20, 2019 meeting of the Pacific Council will be streamed live on the internet. The broadcasts begin initially at 9 a.m. PST Friday, November 13, 2019 and continue at 8 a.m. daily through Wednesday, November 20, 2019. Broadcasts end when business for the day is complete. Only the audio portion and presentations displayed on the screen at the Pacific Council meeting will be broadcast. The audio portion is listen-only; you will be unable to speak to the Pacific Council via the broadcast. To access the meeting online, please use the following link: *http://www.gotomeeting.com/online/webinar/join-webinar* and enter the November Webinar ID, 634–645–459, and your email address. You can attend the webinar online using a computer, tablet, or smart phone, using the GoToMeeting application. It is recommended that you use a computer headset to listen to the meeting, but you may use your telephone for the audio-only portion of the meeting. The audio portion may be attended using a telephone by dialing the toll number 1–562–247–8422 (not a toll-free number), audio access code 532–691–006, and entering the audio pin shown after joining the webinar.

The following items are on the Pacific Council agenda, but not necessarily in this order. Agenda items noted as ''Final Action'' refer to actions requiring the Council to transmit a proposed fishery

management plan, proposed plan amendment, or proposed regulations to the U.S. Secretary of Commerce, under Sections 304 or 305 of the Magnuson-Stevens Fishery Conservation and Management Act. Additional detail on agenda items, Council action, advisory entity meeting times, and meeting rooms are described in Agenda Item A.4, Proposed Council Meeting Agenda, and will be in the advance November 2019 briefing materials and posted on the Pacific Council website at *www.pcouncil.org* no later than Friday, October 25, 2019.

A. Call to Order
  1. Opening Remarks
  2. Roll Call
  3. Executive Director's Report
  4. Approve Agenda
B. Open Comment Period
  1. Comments on Non-Agenda Items
C. Enforcement Matters
  1. Tri-State Enforcement Report
D. Coastal Pelagic Species Management
  1. National Marine Fisheries Service (NMFS) Report
  2. Preliminary Review of New 2020 Exempted Fishing Permits
  3. Methodology Review Preliminary Topic Selection
  4. Central Subpopulation of Northern Anchovy Nearshore Estimation Methodology, Frequency of Overfishing Limit Reviews, and Accountability Measures
E. Salmon Management
  1. NMFS Report
  2. Final Methodology Review
  3. 2020 Preseason Management Schedule and Scope Annual Management Cycle Amendment
  4. Southern Resident Killer Whale Endangered Species Act Consultation Update and Risk Assessment
F. Pacific Halibut Management
  1. 2020 Catch Sharing Plan and Annual Regulations—Final Action
  2. Commercial Directed Fishery Regulations for 2020
  3. Commercial Directed Fishery Transition Planning
G. Habitat
  1. Current Habitat Issues
H. Groundfish Management
  1. NMFS Report
  2 Workload and New Management Measure Update
  3. Electronic Monitoring Program Guidelines and Manual Review
  4. 2020 Harvest Specifications for Cowcod and Shortbelly Rockfish—Final Action
  5. Preliminary Exempted Fishing Permit Approval for 2021–2022
  6. Harvest Specifications for 2021–22 Including Final Overfishing Limits and Acceptable Biological Catches
  7. Gear Switching and Sablefish Area Management Update
  8. Biennial Management Measures for 2021–2022
  9. Endangered Species Act Mitigation Measures for Salmon—Final Action
  10. Inseason Adjustments Including Whiting Yield Set-Asides for 2020—Final Action
I. Administrative Matters
  1. Legislative Matters Including the Modernizing Recreational Fisheries Management Act Report to Congress
  2. Approval of Council Meeting Record
  3. Fiscal Matters
  4. Membership Appointments and Council Operating Procedures
  5. Future Council Meeting Agenda and Workload Planning
J. Highly Migratory Species Management
  1. NMFS Report
  2. Recommend International Management Activities
  3. Scoping Amendment Authorizing Shallow-Set Longline Gear Outside of the Exclusive Economic Zone

Advisory Body Agendas

Advisory body agendas will include discussions of relevant issues that are on the Pacific Council agenda for this meeting, and may also include issues that may be relevant to future Council meetings. Proposed advisory body agendas for this meeting will be available on the Pacific Council website *http://www.pcouncil.org/council-operations/council-meetings/current-briefing-book/* no later than Friday, October 25, 2019.

Schedule of Ancillary Meetings

Day 1—Thursday, November 14, 2019

Coastal Pelagic Species Advisory Subpanel 8 a.m.
Coastal Pelagic Species Management Team 8 a.m.
Groundfish Electronic Monitoring Policy Advisory Committee
And Technical Advisory Committee 8 a.m.
Habitat Committee 8 a.m.
Scientific and Statistical Committee 8 a.m.
Budget Committee 10 a.m.
Legislative Committee 1 p.m.

Day 2—Friday, November 15, 2019

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Coastal Pelagic Species Advisory Subpanel 8 a.m.
Coastal Pelagic Species Management Team 8 a.m.
Enforcement Consultants 8 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Salmon Advisory Subpanel 8 a.m.
Salmon Technical Team 8 a.m.
Scientific and Statistical Committee 8 a.m.

Day 3—Saturday, November 16, 2019

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Highly Migratory Species Advisory Subpanel 8 a.m.
Highly Migratory Species Management Team 8 a.m.
Salmon Advisory Subpanel 8 a.m.
Enforcement Consultants Ad Hoc

Day 4—Sunday, November 17, 2019

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Highly Migratory Species Advisory Subpanel 8 a.m.
Highly Migratory Species Management Team 8 a.m.
Enforcement Consultants Ad Hoc

Day 5—Monday, November 18, 2019

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Highly Migratory Species Advisory Subpanel 8 a.m.
Highly Migratory Species Management Team 8 a.m.
Enforcement Consultants Ad Hoc

Day 6—Tuesday, November 19, 2019

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Enforcement Consultants Ad Hoc

Day 7—Wednesday, November 20, 2019

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.

Although non-emergency issues not contained in this agenda may come before the Pacific Council for discussion, those issues may not be the subject of formal Council action during these meetings. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under

section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Pacific Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2411 at least 10 business days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 23, 2019.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019–23443 Filed 10–25–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV115

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Groundfish Plan Teams will meet November 12, 2019 through November 15, 2019.

DATES: The meetings will be held on Tuesday, November 12, 2019 through Friday, November 15, 2019, from 9 a.m. to 5 p.m., Pacific Time.

ADDRESSES:

Meeting address: The meetings will be held at the Alaska Fishery Science Center in the Traynor Room 2076 and Room 2039, 7600 Sand Point Way NE, Building 4, Seattle, WA 98115. Teleconference numbers and connection information for the online broadcast of the meeting will be posted at the NPFMC web address provided below.

Council address: North Pacific Fishery Management Council, 605 W 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone: (907) 271–2809.

FOR FURTHER INFORMATION CONTACT: Sara Cleaver or Steve MacLean, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Agenda

Tuesday, November 12, 2019 to Friday, November 15, 2019

The Bering Sea and Aleutian Islands (BSAI) and Gulf of Alaska (GOA) Plan Teams will compile and review the annual BSAI and GOA Groundfish Stock Assessment and Fishery Evaluation (SAFE) reports, and recommend final groundfish harvest and prohibited species specifications for 2020/2021. The Plan Teams will also review the Economic Report and the Ecosystem Status Report and assessments.

The Agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/*.

Public Comment

Public comment letters will be accepted and should be submitted either electronically via the electronic agenda: *https://meetings.npfmc.org/* or through the mail: North Pacific Fishery Management Council, 605 W 4th Ave., Suite 306, Anchorage, AK 99501–2252. In-person oral public testimony will be accepted at the discretion of the Plan Team co-Chairs.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 271–2809 at least 7 working days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 23, 2019.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019–23444 Filed 10–25–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV116

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico (GMFMC) and South Atlantic Fishery Management Councils (SAFMC) will hold a joint meeting of its Spiny Lobster Advisory Panels (AP).

DATES: The meeting will convene on Wednesday, November 13, 2019, 8:30 a.m. to 4:30 p.m., EST. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held at the Hyatt Place Marathon, located at 1996 Overseas Highway, Marathon, FL 33050; telephone: (305) 743–1234.

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Natasha Mendez-Ferrer, Biologist, Gulf of Mexico Fishery Management Council; *natasha.mendez@gulfcouncil.org,* telephone: (813) 348–1630 and Christina Wiegand, Fishery Social Scientist, South Atlantic Fishery Management Council; *christina.wiegand@safmc.net,* telephone: (843) 571–4366. The Councils' websites, *www.gulfcouncil.org* and *https://safmc.net,* also has details on the meeting location, proposed agenda, webinar listen-in access, and other materials.

SUPPLEMENTARY INFORMATION: The following items are on the agenda, though agenda items may be addressed out of order (changes will be noted on the Councils' website when possible.)

Wednesday, November 13, 2019; 8:30 a.m.–4:30 p.m.

The meeting will begin with introduction of members, adoption of agenda; and, approval of the Joint GMFMC and SAFMC Spiny Lobster AP minutes from the April 25, 2016 meeting.

Council staff will review the scope of work; followed by a presentation by the Florida Keys National Marine Sanctuary staff, and a discussion on the proposal's implications for Spiny Lobster fisheries management. The APs will discuss recommendations; the state of the Spiny Lobster fishery; and suggest future AP meeting discussion topics.

—Meeting Adjourns

The meeting will be broadcast via webinar. You may register for the listen-in access by visiting *www.gulfcouncil.org* and clicking on the Advisory Panel meeting on the calendar. The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not on the agenda may come before the group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action

during this meeting. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Gulf Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 23, 2019.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019–23445 Filed 10–25–19; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Request for Nominations for the Subcommittee on Margin Requirements for Non-Cleared Swaps Under the Global Markets Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC or Commission) is requesting nominations for membership on the Subcommittee on Margin Requirements for Non-Cleared Swaps (Subcommittee) under the Global Markets Advisory Committee (GMAC). The GMAC is a discretionary advisory committee established by the Commission in accordance with the Federal Advisory Committee Act.

DATES: The deadline for the submission of nominations is November 12, 2019.

ADDRESSES: Nominations should be emailed to *GMAC_Submissions@cftc.gov* or sent by hand delivery or courier to Elizabeth Mastrogiacomo, Senior Counsel, Office of Commissioner Stump, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Please use the title ''GMAC Subcommittee on Margin Requirements for Non-Cleared Swaps'' for any nominations you submit.

FOR FURTHER INFORMATION CONTACT: Elizabeth Mastrogiacomo, Senior Counsel, Office of Commissioner Stump, at (202) 418–5935 or by email at *emastrogiacomo@cftc.gov.*

SUPPLEMENTARY INFORMATION: The Subcommittee was established to examine the implementation of margin requirements for non-cleared swaps, to identify challenges associated with forthcoming implementation phases, and to recommend actions the Commission may take to mitigate the challenges identified. Within this charge, the Subcommittee may consider, but is not limited to, the following issues and topics:

- Identifying challenges associated with forthcoming implementation phases of margin requirements for non-cleared swaps faced by market participants, including swap dealers, asset managers, buy-side participants, and custodians;
- Identifying potential mitigants to the challenges faced by market participants regarding forthcoming implementation phases of margin requirements for non-cleared swaps; and
- Identifying regulatory initiatives that may address such challenges faced by market participants in complying with margin requirements for non-cleared swaps.

The Subcommittee will provide any reports and/or recommendations directly to the GMAC and will not provide reports and/or recommendations directly to the Commission. The Subcommittee has no authority to make decisions on behalf of the GMAC, and no determination of fact or policy will be made by the Subcommittee on behalf of the Commission.

Subcommittee members will generally serve as representatives and provide advice reflecting the views of stakeholder organizations and entities throughout the derivatives and financial markets. The Subcommittee may also include regular government employees when doing so furthers its purpose. It is anticipated that the Subcommittee will hold at least three in-person or telephonic meetings per year. Subcommittee members serve at the pleasure of the Commission. Subcommittee members do not receive compensation or honoraria for their services, and they are not reimbursed for travel and per diem expenses.

The Subcommittee members will include individuals who are members of the GMAC and/or other individuals. For these other individuals who are not serving on the GMAC currently, the Commission seeks nominations of individuals from a wide range of perspectives, including from the viewpoint categories of exchanges and clearing houses, brokers and other market intermediaries, derivatives dealers, market end users—financial, market end users—commercial, providers of other services, non-exchange self-regulatory organizations, and public interest. To advise the GMAC effectively, Subcommittee members must have a high level of expertise and experience with the margin requirements for non-cleared swaps, including challenges faced in past implementation phases of the margin requirements for non-cleared swaps, challenges that remain in future implementation phases, efforts by industry participants to reduce or mitigate those challenges, and the Commodity Exchange Act and Commission regulations thereunder. To the extent practicable, the Commission will strive to select members reflecting wide ethnic, racial, gender, and age representation.

The Commission invites the submission of nominations for Subcommittee membership. Each nomination submission should include the proposed member's name, title, organization affiliation and address, email address and telephone number, as well as information that supports the individual's qualifications to serve on the Subcommittee. The submission should also include the name, email address and telephone number of the person nominating the proposed Subcommittee member. Self-nominations are acceptable.

Submission of a nomination is not a guarantee of selection as a member of the Subcommittee. As noted in the GMAC's Membership Balance Plan, the Commission seeks to ensure that the membership of a subcommittee is balanced relative to the particular issues addressed by the subcommittee in question. The Commission will identify members for the Subcommittee based on Commissioners' and Commission staff professional knowledge of margin requirements for non-cleared swaps, consultation with knowledgeable persons outside the CFTC, and requests to be represented received from organizations. The office of the Commissioner primarily responsible for the GMAC and the Subcommittee plays a primary, but not exclusive, role in this process and makes recommendations regarding membership to the Commission. The Commission, by vote, authorizes members to serve on GMAC subcommittees.

Authority: 5 U.S.C. App. II.

Dated: October 23, 2019.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2019–23496 Filed 10–25–19; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Air University Board of Visitors Meeting

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of meeting of the Air University Board of Visitors.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce the following Federal Advisory Committee meeting of the Board of Visitors (BoV) of the Air University.

DATES: Monday, November 18, 2019, from 8:00 a.m. to 5:00 p.m. and Tuesday, November 19, 2019, from 8:00 a.m. to 5:00 p.m. (Central Time).

ADDRESSES: Air University Commander's Conference Room, Building 800, Maxwell Air Force Base, AL.

FOR FURTHER INFORMATION CONTACT: Dr. Yolanda Williams, Designated Federal Officer, Air University Headquarters, 55 LeMay Plaza South, Maxwell Air Force Base, Alabama 36112–6335, telephone (334) 953–5488.

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 this meeting is to provide independent advice and recommendations on matters pertaining to the educational, doctrinal, and research policies and activities of Air University. The agenda will include topics relating to the policies, programs, and initiatives of Air University educational programs and will include an out brief from the Air Force Institute of Technology and Community College of the Air Force Subcommittees.

Meeting Accessibility: Open to the public. Any member of the public wishing to attend this meeting should contact the Designated Federal Officer listed below at least ten calendar days prior to the meeting for information on base entry procedures.

Written Statements: Any member of the public wishing to provide input to the Air University Board of Visitors' in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act should submit a written statement to the Designated Federal Officer at the address detailed below. Statements submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed below at least ten calendar days prior to the meeting that is the subject of this notice. Written statements received after this date may not be provided to or considered by the Air University Board of Visitors until its next meeting. The Designated Federal Officer will review all timely submissions with the Air University Board of Visitors' Board Chairperson and ensure they are provided to members of the Board before the meeting that is the subject of this notice.

Adriane Paris,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2019–23451 Filed 10–25–19; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Department of the Army

Program Comment for Army Inter-War Era Historic Housing (1919–1940)

AGENCY: Department of the Army, DoD.

ACTION: Notification of Intent.

SUMMARY: On September 19, 2019 the Department of the Army notified the Advisory Council on Historic Preservation (ACHP) of the Army's intent to request a Program Comment for Army Inter-War Era Historic Housing 1919–1940 in accordance with the National Historic Preservation Act (NHPA) Section 106, and 36 CFR 800.14(e). The Program Comment will demonstrate Army compliance with the NHPA regarding management of its inventory of Inter-War Era historic housing, associated structures, and landscape features. The Army plans to submit its formal request for Program Comment for Army Inter-War Era Historic Housing (1919–1940) to the ACHP in July 2020.

DATES: Consideration will be given to all comments regarding the Army's intent to request a Program Comment for Army Inter-War Era Historic Housing (1919–1940) from the ACHP that are received within 45 days following this publication date.

ADDRESSES: You may submit written comments identified by ''Program Comment for Army Inter-War Era Historic Housing (1919–1940)'' to: Office of the Assistant Secretary of the Army for Installations, Energy and Environment, ATTN: DASA–ESOH/ Federal Preservation Officer, 110 Army Pentagon, Room 3E464, Washington, DC 20310.

FOR FURTHER INFORMATION CONTACT: Dr. David Guldenzopf, Department of the Army Federal Preservation Officer, (571) 256–7822, *david.b.guldenzopf.civ@mail.mil.*

SUPPLEMENTARY INFORMATION: The intent of the Program Comment is to improve the quality of life, health, and safety of military families, increase historic property management efficiency and cost effectiveness, and preserve the historical and architectural character of this housing by meeting NHPA Section 106 requirements in a programmatic manner. There are approximately 2,700 Army Inter-War Era historic housing units (1919–1940) on 35 Army installations.

The Army Quartermaster Corps led the design and construction of housing during the Inter-War era. The Quartermaster Corps adopted standardized plans for the nationally popular *Colonial Revival* design style for Army Inter-War era housing. With the use of standardized plans, the same Colonial Revival designs were repeated, one after the other, on Army installations.

Army Inter-War Era housing, associated structures, and landscape features are subject to a large number of frequent and repetitive undertakings. The category of undertaking for the Program Comment for Army Inter-War Era Historic Housing (1919–1940) is *management actions: Maintenance, repair, rehabilitation, renovation, abatement, mothballing, demolition, replacement, transfer, sale, and lease.* These actions present a potential for adverse effects to historic properties.

The Army's proposed Program Comment treatment measures for Army Inter-War Era historic housing will ensure the effects of Army management actions are taken into account. The proposed treatment measures include: An Army Inter-War era housing historic context; identification of Army Inter-War Era historic housing that may be of particular importance; public educational materials; and development of Design Guidelines for Army Inter-War Era Historic Housing 1919–1940. In order to address the health and safety risks to military families living in historic housing from potential hazards such as lead-based paint and address high costs associated with use of ''in-kind'' historic materials, the Army will

implement its management actions using modern industry standard imitative materials that replicate historic design elements identified in the Design Guidelines. The Army plans to monitor implementation of the Program Comment treatment measures.

The Army has provided notification of the proposed Program Comment to key stakeholders including the ACHP, National Conference of State Historic Preservation Officers (NCSHPO), the National Trust for Historic Preservation, and the National Association of Tribal Historic Preservation Officers. The Army's notice of intent to request a Program Comment to the ACHP was preceded by coordination of the concept with officials from the ACHP, NCSHPO, Office of the Secretary of Defense, other Military Departments, and DoD Privatized Housing Partners.

Dated: October 22, 2019.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2019–23508 Filed 10–25–19; 8:45 am]

BILLING CODE 3710–03–P

DEPARTMENT OF DEFENSE

Office of the Secretary

U.S. Strategic Command Strategic Advisory Group; Notice of Advisory Committee Closed Meeting

AGENCY: Office of the Chairman Joint Chiefs of Staff, U.S. Strategic Command Strategic Advisory Group, Department of Defense.

ACTION: Notice of Federal Advisory Committee closed meeting.

SUMMARY: The Department of Defense is publishing this notice to announce that the following Federal Advisory Committee meeting of the U.S. Strategic Command Strategic Advisory Group will take place.

DATES: Day 1—Closed to the public Tuesday, November 19, 2019, from 8:00 a.m. to 4:00 p.m. and Day 2—Closed to the public Wednesday, November 20, 2019, from 8:00 a.m. to 12:00 p.m.

ADDRESSES: Dougherty Conference Center, Building 432, 906 SAC Boulevard, Offutt AFB, Nebraska 68113.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Trefz, Jr., Designated Federal Officer, (402) 294–4102 (Voice), (402) 294–3128 (Facsimile), *john.l.trefz.civ@mail.mil* (Email). Mailing address is 901 SAC Boulevard, Suite 1F7, Offutt AFB, NE 68113–6030.

SUPPLEMENTARY INFORMATION: This meeting is being 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. This meeting is being held under the provisions of the FACA of 1972 (5 U.S.C. Appendix), the Government Sunshine Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to provide advice on scientific, technical, intelligence, and policy-related issues to the Commander, U.S. Strategic Command, during the development of the Nation's strategic war plans.

Agenda: Topics include: Policy Issues, Space Operations, Nuclear Weapons Stockpile Assessment, Weapons of Mass Destruction, Intelligence Operations, Cyber Operations, Global Strike, Command and Control, Science and Technology, Missile Defense.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, and 41 CFR 102–3.155, the Department of Defense has determined that the meeting shall be closed to the public. Per delegated authority by the Chairman, Joint Chiefs of Staff, General John E. Hyten, Commander, U.S. Strategic Command, in consultation with his legal advisor, has determined in writing that the public interest requires that all sessions of this meeting be closed to the public because they will be concerned with matters listed in 5 U.S.C. 552b(c)(1).

Written Statements: Pursuant to 41 CFR 102–3.140(c), the public or interested organizations may submit written statements to the membership of the Strategic Advisory Group at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Strategic Advisory Group's Designated Federal Officer; the Designated Federal Officer's contact information can be obtained from the GSA's FACA Database—*http://www.facadatabase.gov/.* Written statements that do not pertain to a scheduled meeting of the Strategic Advisory Group may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five business days prior to the meeting in question. The Designated Federal Officer will review all submitted written statements and provide copies to all the committee members.

Dated: October 23, 2019.

Morgan E. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–23468 Filed 10–25–19; 8:45 am]

BILLING CODE 5001–06–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meetings

TIME AND DATE: 1:00 p.m.–4:00 p.m., December 12, 2019.

PLACE: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Room 7019, Washington, DC 20004.

STATUS: Open.

MATTERS TO BE CONSIDERED: In this open meeting, representatives of the Department of Energy and the National Nuclear Security Administration will brief the Board on the status of the Department's Implementation Plan for Board Recommendation 2019–1, Uncontrolled Hazard Scenarios and 10 CFR 830 Implementation at the Pantex Plant, discuss Board concerns with the Implementation Plan, and discuss additional actions taken to improve the Pantex Plant safety basis. More information, including an agenda for the meeting, can be found at *www.dnfsb.gov.*

CONTACT PERSON FOR MORE INFORMATION: Glenn Sklar, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004–2901, (800) 788–4016. This is a toll-free number.

Dated: October 24, 2019.

Bruce Hamilton,

Chairman.

[FR Doc. 2019–23603 Filed 10–24–19; 4:15 pm]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0135]

Agency Information Collection Activities; Comment Request; Study of State Policies To Prohibit Aiding and Abetting Sexual Misconduct in Schools

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before December 27, 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–0135. 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 9089, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Andrew Abrams, 202–245–7500.

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: Study of State Policies to Prohibit Aiding and Abetting Sexual Misconduct in Schools.

OMB Control Number: 1810–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 56.

Total Estimated Number of Annual Burden Hours: 56.

Abstract: Under Section 8546 of the Every Student Succeeds Act (ESSA), every state must have laws, regulations, or policies that prohibit the state education agency, a district, a school, or any school employee, contractor, or agent, from assisting an individual in obtaining new employment if they know, or have probable cause to believe, that the individual has engaged in sexual misconduct with a student or minor in violation of the law. The U.S. Department of Education is conducting a study that will examine states' development and implementation of laws and policies to prohibit aiding and abetting sexual misconduct in schools. The study will also describe the challenges states have encountered implementing the requirements of Section 8546 and how they have addressed these challenges. The study is not intended to determine the extent to which each state is complying with Section 8546. Rather, the Department seeks to understand how states are addressing implementing the provisions in Section 8546 in order to inform the Department's technical assistance efforts to states on this section of the law.

Dated: October 22, 2019.

Stephanie Valentine,

PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–23436 Filed 10–25–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Authorities; Innovative Assessment Demonstration Authority

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for new authorities for fiscal year (FY) 2020 under the Innovative Assessment Demonstration Authority.

DATES:

Applications Available: October 28, 2019.

Deadline for Notice of Intent to Apply: November 27, 2019.

Deadline for Transmittal of Applications: January 27, 2020.

FOR FURTHER INFORMATION CONTACT: Donald Peasley, U.S. Department of Education, 400 Maryland Avenue SW, Room 3W106, Washington, DC 20202–6132. Telephone: (202) 453–7982. Email: *Donald.Peasley@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Opportunity Description

Purpose of Program: The Secretary provides State educational agencies (SEAs), including consortia of SEAs, with the authority to establish and operate an innovative assessment system in their public schools under the Innovative Assessment Demonstration Authority in section 1204 of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESEA or the Act). During the initial demonstration period—*i.e.,* the first three years that the Secretary provides innovative assessment demonstration authority—no more than seven SEAs may participate, including those participating in consortia, which may include no more than four SEAs. The Department held its first competition for this authority in 2018, and a second competition in 2019. We have awarded four States the authority. Up to three additional States may be approved for this authority during this competition.

Requirements: The following requirements are from 34 CFR 200.105.

An eligible application must include the following:

(a) *Consultation.* Evidence that the SEA or a consortium has developed an innovative assessment system in collaboration with—

(1) Experts in the planning, development, implementation, and evaluation of innovative assessment systems, which may include external partners; and

(2) Affected stakeholders in the State, or in each State in the consortium, including—

(i) Those representing the interests of children with disabilities, English learners, and other subgroups of students described in section 1111(c)(2) of the Act;

(ii) Teachers, principals, and other school leaders;

(iii) Local educational agencies (LEAs);

(iv) Representatives of Indian Tribes located in the State;

(v) Students and parents, including parents of children described in paragraph (a)(2)(i) of this section; and

(vi) Civil rights organizations.

(b) *Innovative assessment system.* A demonstration that the innovative assessment system does or will—

(1) Meet the requirements of section 1111(b)(2)(B) of the Act, except that an innovative assessment—

(i) Need not be the same assessment administered to all public elementary and secondary school students in the State during the demonstration authority period described in 34 CFR 200.104(b)(2) or extension period described in 34 CFR 200.108 and prior to statewide use consistent with 34 CFR 200.107, if the innovative assessment system will be administered initially to all students in participating schools within a participating LEA, provided that the statewide academic assessments under 34 CFR 200.2(a)(1) and section 1111(b)(2) of the Act are administered to all students in any non-participating LEA or any non-participating school within a participating LEA; and

(ii) Need not be administered annually in each of grades 3–8 and at least once in grades 9–12 in the case of reading/language arts and mathematics assessments, and at least once in grades 3–5, 6–9, and 10–12 in the case of science assessments, so long as the statewide academic assessments under 34 CFR 200.2(a)(1) and section 1111(b)(2) of the Act are administered in any required grade and subject under 34 CFR 200.5(a)(1) in which the SEA does not choose to implement an innovative assessment;

(2)(i) Align with the challenging State academic content standards under section 1111(b)(1) of the Act, including the depth and breadth of such standards, for the grade in which a student is enrolled; and

(ii) May measure a student's academic proficiency and growth using items above or below the student's grade level so long as, for purposes of meeting the requirements for reporting and school accountability under sections 1111(c) and 1111(h) of the Act and paragraphs (b)(3) and (b)(7)–(9) of this section, the State measures each student's academic proficiency based on the challenging State academic standards for the grade in which the student is enrolled;

(3) Express student results or competencies consistent with the challenging State academic achievement standards under section 1111(b)(1) of the Act and identify which students are not making sufficient progress toward, and attaining, grade-level proficiency on such standards;

(4)(i) Generate results, including annual summative determinations as defined in paragraph (b)(7) of this section, that are valid, reliable, and comparable for all students and for each subgroup of students described in 34 CFR 200.2(b)(11)(i)(A)–(I) and sections 1111(b)(2)(B)(xi) and 1111(h)(1)(C)(ii) of the Act, to the results generated by the State academic assessments described in 34 CFR 200.2(a)(1) and section 1111(b)(2) of the Act for such students. Consistent with the SEA's or consortium's evaluation plan under 34 CFR 200.106(e), the SEA must plan to annually determine comparability during each year of its demonstration authority period in one of the following ways:

(A) Administer full assessments from both the innovative and statewide assessment systems to all students enrolled in participating schools, such that at least once in any grade span (*i.e.,* 3–5, 6–8, or 9–12) and subject for which there is an innovative assessment, a statewide assessment in the same subject would also be administered to all such students. As part of this determination, the innovative assessment and statewide assessment need not be administered to an individual student in the same school year.

(B) Administer full assessments from both the innovative and statewide assessment systems to a demographically representative sample of all students and subgroups of students described in section 1111(c)(2) of the Act, from among those students enrolled in participating schools, such that at least once in any grade span (*i.e.,* 3–5, 6–8, or 9–12) and subject for which there is an innovative assessment, a statewide assessment in the same subject would also be administered in the same school year to all students included in the sample.

(C) Include, as a significant portion of the innovative assessment system in each required grade and subject in which both an innovative and statewide assessment are administered, items or performance tasks from the statewide assessment system that, at a minimum, have been previously pilot-tested or field-tested for use in the statewide assessment system.

(D) Include, as a significant portion of the statewide assessment system in each required grade and subject in which both an innovative and statewide assessment are administered, items or performance tasks from the innovative assessment system that, at a minimum, have been previously pilot tested or field tested for use in the innovative assessment system.

(E) Use an alternative method for demonstrating comparability that an SEA can demonstrate will provide for an equally rigorous and statistically valid comparison between student performance on the innovative assessment and the statewide assessment, including for each subgroup of students described in 34 CFR 200.2(b)(11)(i)(A)–(I) and sections 1111(b)(2)(B)(xi) and 1111(h)(1)(C)(ii) of the Act; and

(ii) Generate results, including annual summative determinations as defined in paragraph (b)(7) of this section, that are valid, reliable, and comparable, for all students and for each subgroup of students described in 34 CFR 200.2(b)(11)(i)(A)–(I) and sections 1111(b)(2)(B)(xi) and 1111(h)(1)(C)(ii) of the Act, among participating schools and LEAs in the innovative assessment demonstration authority. Consistent with the SEA's or consortium's evaluation plan under 34 CFR 200.106(e), the SEA must plan to annually determine comparability during each year of its demonstration authority period;

(5)(i) Provide for the participation of all students, including children with disabilities and English learners;

(ii) Be accessible to all students by incorporating the principles of universal design for learning, to the extent practicable, consistent with 34 CFR 200.2(b)(2)(ii); and

(iii) Provide appropriate accommodations consistent with 34 CFR 200.6(b) and (f)(1)(i) and section 1111(b)(2)(B)(vii) of the Act;

(6) For purposes of the State accountability system consistent with section 1111(c)(4)(E) of the Act, annually measure in each participating school progress on the Academic Achievement indicator under section 1111(c)(4)(B) of the Act of at least 95 percent of all students, and 95 percent of students in each subgroup of students described in section 1111(c)(2) of the Act, who are required to take such assessments consistent with paragraph (b)(1)(ii) of this section;

(7) Generate an annual summative determination of achievement, using the annual data from the innovative assessment, for each student in a participating school in the demonstration authority that describes—

(i) The student's mastery of the challenging State academic standards under section 1111(b)(1) of the Act for

the grade in which the student is enrolled; or

(ii) In the case of a student with the most significant cognitive disabilities assessed with an alternate assessment aligned with alternate academic achievement standards under section 1111(b)(1)(E) of the Act, the student's mastery of those standards;

(8) Provide disaggregated results by each subgroup of students described in 34 CFR 200.2(b)(11)(i)(A)–(I) and sections 1111(b)(2)(B)(xi) and 1111(h)(1)(C)(ii) of the Act, including timely data for teachers, principals and other school leaders, students, and parents consistent with 34 CFR 200.8 and section 1111(b)(2)(B)(x) and (xii) and section 1111(h) of the Act, and provide results to parents in a manner consistent with paragraph (b)(4)(i) of this section and part 200.2(e); and

(9) Provide an unbiased, rational, and consistent determination of progress toward the State's long-term goals for academic achievement under section 1111(c)(4)(A) of the Act for all students and each subgroup of students described in section 1111(c)(2) of the Act and a comparable measure of student performance on the Academic Achievement indicator under section 1111(c)(4)(B) of the Act for participating schools relative to non-participating schools so that the SEA may validly and reliably aggregate data from the system for purposes of meeting requirements for—

(i) Accountability under sections 1003 and 1111(c) and (d) of the Act, including how the SEA will identify participating and non-participating schools in a consistent manner for comprehensive and targeted support and improvement under section 1111(c)(4)(D) of the Act; and

(ii) Reporting on State and LEA report cards under section 1111(h) of the Act.

(c) *Selection Criteria.* Information that addresses each of the selection criteria under 34 CFR 200.106.

(d) *Assurances.* Assurances that the SEA, or each SEA in a consortium, will—

(1) Continue use of the statewide academic assessments in reading/language arts, mathematics, and science required under 34 CFR 200.2(a)(1) and section 1111(b)(2) of the Act—

(i) In all non-participating schools; and

(ii) In all participating schools for which such assessments will be used in addition to innovative assessments for accountability purposes under section 1111(c) of the Act consistent with paragraph (b)(1)(ii) of this section or for evaluation purposes consistent with 34 CFR 200.106(e) during the demonstration authority period;

(2) Ensure that all students and each subgroup of students described in section 1111(c)(2) of the Act in participating schools are held to the same challenging State academic standards under section 1111(b)(1) of the Act as all other students, except that students with the most significant cognitive disabilities may be assessed with alternate assessments aligned with alternate academic achievement standards consistent with 34 CFR 200.6 and section 1111(b)(1)(E) and (b)(2)(D) of the Act, and receive the instructional support needed to meet such standards;

(3) Report the following annually to the Secretary, at such time and in such manner as the Secretary may reasonably require:

(i) An update on implementation of the innovative assessment demonstration authority, including—

(A) The SEA's progress against its timeline under 34 CFR 200.106(c) and any outcomes or results from its evaluation and continuous improvement process under 34 CFR 200.106(e); and

(B) If the innovative assessment system is not yet implemented statewide consistent with 34 CFR 200.104(a)(2), a description of the SEA's progress in scaling up the system to additional LEAs or schools consistent with its strategies under 34 CFR 200.106(a)(3)(i), including updated assurances from participating LEAs consistent with paragraph (e)(2) of this section.

(ii) The performance of students in participating schools at the State, LEA, and school level, for all students and disaggregated for each subgroup of students described in section 1111(c)(2) of the Act, on the innovative assessment, including academic achievement and participation data required to be reported consistent with section 1111(h) of the Act, except that such data may not reveal any personally identifiable information.

(iii) If the innovative assessment system is not yet implemented statewide, school demographic information, including enrollment and student achievement information, for the subgroups of students described in section 1111(c)(2) of the Act, among participating schools and LEAs and for any schools or LEAs that will participate for the first time in the following year, and a description of how the participation of any additional schools or LEAs in that year contributed to progress toward achieving high-quality and consistent implementation across demographically diverse LEAs in the State consistent with the SEA's benchmarks described in 34 CFR 200.106(a)(3)(iii).

(iv) Feedback from teachers, principals and other school leaders, and other stakeholders consulted under paragraph (a)(2) of this section, including parents and students, from participating schools and LEAs about their satisfaction with the innovative assessment system.

(4) Ensure that each participating LEA informs parents of all students in participating schools about the innovative assessment, including the grades and subjects in which the innovative assessment will be administered, and, consistent with section 1112(e)(2)(B) of the Act, at the beginning of each school year during which an innovative assessment will be implemented. Such information must be—

(i) In an understandable and uniform format;

(ii) To the extent practicable, written in a language that parents can understand or, if it is not practicable to provide written translations to a parent with limited English proficiency, be orally translated for such parent; and

(iii) Upon request by a parent who is an individual with a disability as defined by the Americans with Disabilities Act, provided in an alternative format accessible to that parent; and

(5) Coordinate with and provide information to, as applicable, the Institute of Education Sciences for purposes of the progress report described in section 1204(c) of the Act and ongoing dissemination of information under section 1204(m) of the Act.

(e) *Initial implementation in a subset of LEAs or schools.* If the innovative assessment system will initially be administered in a subset of LEAs or schools in a State—

(1) A description of each LEA, and each of its participating schools, that will initially participate, including demographic information and its most recent LEA report card under section 1111(h)(2) of the Act; and

(2) An assurance from each participating LEA, for each year that the LEA is participating, that the LEA will comply with all requirements of this section.

(f) *Application from a consortium of SEAs.* If an application for the innovative assessment demonstration authority is submitted by a consortium of SEAs—

(1) A description of the governance structure of the consortium, including—

(i) The roles and responsibilities of each member SEA, which may include a description of affiliate members, if applicable, and must include a description of financial responsibilities of member SEAs;

(ii) How the member SEAs will manage and, at their discretion, share intellectual property developed by the consortium as a group; and

(iii) How the member SEAs will consider requests from SEAs to join or leave the consortium and ensure that changes in membership do not affect the consortium's ability to implement the innovative assessment demonstration authority consistent with the requirements and selection criteria in this section and 34 CFR 200.106.

(2) While the terms of the association with affiliate members are defined by each consortium, consistent with 34 CFR 200.104(b)(1) and paragraph (f)(1)(i) of this section, for an affiliate member to become a full member of the consortium and to use the consortium's innovative assessment system under the demonstration authority, the consortium must submit a revised application to the Secretary for approval, consistent with the requirements of this section and 34 CFR 200.106 and subject to the limitation under 34 CFR 200.104(d).

Definitions: The following definitions are from 34 CFR 200.104(b).

(1) *Affiliate member of a consortium* means an SEA that is formally associated with a consortium of SEAs that is implementing the innovative assessment demonstration authority, but is not yet a full member of the consortium because it is not proposing to use the consortium's innovative assessment system under the demonstration authority, instead of, or in addition to, its statewide assessment under section 1111(b)(2) of the Act for purposes of accountability and reporting under sections 1111(c) and 1111(h) of the Act.

(2) *Demonstration authority period* refers to the period of time over which an SEA, or consortium of SEAs, is authorized to implement the innovative assessment demonstration authority, which may not exceed five years and does not include the extension or waiver period under 34 CFR 200.108. An SEA must use its innovative assessment system in all participating schools instead of, or in addition to, the statewide assessment under section 1111(b)(2) of the Act for purposes of accountability and reporting under section 1111(c) and 1111(h) of the Act in each year of the demonstration authority period.

(3) *Innovative assessment system* means a system of assessments, which may include any combination of general assessments or alternate assessments aligned with alternate academic achievement standards, in reading/language arts, mathematics, or science administered in at least one required grade under 34 CFR 200.5(a)(1) and section 1111(b)(2)(B)(v) of the Act that—

(i) Produces—

(A) An annual summative determination of each student's mastery of grade-level content standards aligned to the challenging State academic standards under section 1111(b)(1) of the Act; or

(B) In the case of a student with the most significant cognitive disabilities assessed with an alternate assessment aligned with alternate academic achievement standards under section 1111(b)(1)(E) of the Act and aligned with the State's academic content standards for the grade in which the student is enrolled, an annual summative determination relative to such alternate academic achievement standards for each such student; and

(ii) May, in any required grade or subject, include one or more of the following types of assessments:

(A) Cumulative year-end assessments.

(B) Competency-based assessments.

(C) Instructionally embedded assessments.

(D) Interim assessments.

(E) Performance-based assessments.

(F) Another innovative assessment design that meets the requirements under 34 CFR 200.105(b).

(4) *Participating LEA* means an LEA in the State with at least one school participating in the innovative assessment demonstration authority.

(5) *Participating school* means a public school in the State in which the innovative assessment system is administered under the innovative assessment demonstration authority instead of, or in addition to, the statewide assessment under section 1111(b)(2) of the Act and where the results of the school's students on the innovative assessment system are used by its State and LEA for purposes of accountability and reporting under section 1111(c) and 1111(h) of the Act.

Program Authority: Section 1204 of the ESEA (20 U.S.C. 6364); 34 CFR 200.104 through 200.108.

II. Award Information

Type of Award: Innovation authority.

Estimated Available Funds: No funds are authorized to be appropriated for the Innovative Assessment Demonstration Authority. However, an SEA may use funds it receives under Grants for State Assessments and Related Activities (see section 1201 of the ESEA (20 U.S.C. 6361)) to implement its innovative assessment system.

Estimated Number of Awards: As noted earlier, up to three States may be approved for this authority in this competition because four States have received the authority in 2018 and 2019. For the initial demonstration period, no more than seven States, including States that are part of a consortium (which may include no more than four States), may participate.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs (as defined in section 8101(49) of the ESEA) and consortia of SEAs that include no more than four SEAs.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Other:* An application from a consortium of SEAs must designate one SEA as the lead State for project management.

IV. Application and Submission Information

1. *Address to Request Application Package:* Donald Peasley, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW, Room 3W106, Washington, DC 20202–6132. Telephone: (202) 453–7982. Email: *Donald.Peasley@ed.gov.*

To obtain a copy via the internet, use the following address: *www2.ed.gov/admins/lead/account/saa.html#Related_Programs_and_Initiatives.*

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the program contact person listed in this section.

2. a. *Content and Form of Application Submission:* Requirements concerning the content and form of an application, together with the forms you must submit, are in the application package for this program, which can be found at *www2.ed.gov/admins/lead/account/saa.html#Related_Programs_and_Initiatives.*

Notice of Intent to Apply: We will be able to develop a more efficient process for reviewing applications if we have a better understanding of the number of applicants that intend to apply for selection under this program. Therefore, we strongly encourage each potential applicant to notify us of their intent to submit an application. This notification should be brief, and identify the SEA

applicant and, if part of a consortium, the SEA that is the fiscal agent for the consortium. Submit this notification by email to *Donald.Peasley@ed.gov* with ''Intent to Apply'' in the email subject line or by mail to Donald Peasley, U.S. Department of Education, 400 Maryland Avenue SW, Room 3W106, Washington, DC 20202–6132. Applicants that do not provide this notification may still apply for the authority.

b. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the Innovative Assessment Demonstration Authority, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended). Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information, please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This competition is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

4. Application *Submission Instructions:* Applications under this program must be submitted electronically using the Department's application portal at *www.Max.gov.* For directions on how to access and use the application portal, please contact Donald Peasley at *Donald.Peasley@ed.gov.* For information (including dates and times) about how to submit your application electronically, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT**. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

5. *Other Submission Requirements:*

a. *Electronic Submission of Applications.*

Applications under this program must be submitted electronically using the Department's application portal at *www.Max.gov* by 5:00:00 p.m. Eastern Time on January 27, 2020. For directions on how to access and use the application portal, please contact Donald Peasley at *Donald.Peasley@ed.gov.*

You may access the electronic application for this program at *www2.ed.gov/admins/lead/account/saa.html#Related_Programs_and_Initiatives.* You must submit all documents electronically.

- You must upload any narrative sections and all other attachments to your application as files in a read-only, flattened Portable Document Format (PDF), meaning any fillable PDF documents must be saved as flattened non-fillable files. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, flattened PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered because the material in question—for example, the project narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF.
- Your application must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, flattened PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.
- We may request that you provide us original signatures on forms at a later date.

b. *Submission of Application in Case of Technical Issues.*

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the *Max.gov* system, you may email your application to the person listed under **FOR FURTHER INFORMATION CONTACT** and provide an explanation of the technical problem you experienced. We will contact you after we determine whether your application will be accepted.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 200.106. We will award up to 120 points to an application under the selection criteria; the total possible points for addressing each selection criterion are noted in parentheses.

(a) *Project narrative.* (Up to 40 points)

The quality of the SEA's or consortium's plan for implementing the innovative assessment demonstration authority. In determining the quality of the plan, the Secretary considers—

(1) The rationale for developing or selecting the particular innovative assessment system to be implemented under the demonstration authority, including—

(i) The distinct purpose of each assessment that is part of the innovative assessment system and how the system will advance the design and delivery of large-scale, statewide academic assessments in innovative ways; and

(ii) The extent to which the innovative assessment system as a whole will promote high-quality instruction, mastery of challenging State academic standards, and improved student outcomes, including for each subgroup of students described in section 1111(c)(2) of the Act; (5 points if factor (3) is applicable; 10 points if factor (3) is inapplicable).

(2) The plan the SEA or consortium, in consultation with any external partners, if applicable, has to—

(i) Develop and use standardized and calibrated tools, rubrics, methods, or other strategies for scoring innovative assessments throughout the demonstration authority period, consistent with relevant nationally recognized professional and technical standards, to ensure inter-rater reliability and comparability of innovative assessment results consistent with 34 CFR 200.105(b)(4)(ii), which may include evidence of inter-rater reliability; and

(ii) Train evaluators to use such strategies, if applicable; (25 points if factor (3) is applicable; 30 points if factor (3) is inapplicable) and

(3) If the system will initially be administered in a subset of schools or LEAs in a State—

(i) The strategies the SEA, including each SEA in a consortium, will use to scale the innovative assessment to all

schools statewide, with a rationale for selecting those strategies;

(ii) The strength of the SEA's or consortium's criteria that will be used to determine LEAs and schools that will initially participate and when to approve additional LEAs and schools, if applicable, to participate during the requested demonstration authority period; and

(iii) The SEA's plan, including each SEA in a consortium, for how it will ensure that, during the demonstration authority period, the inclusion of additional LEAs and schools continues to reflect high-quality and consistent implementation across demographically diverse LEAs and schools, or contributes to progress toward achieving such implementation across demographically diverse LEAs and schools, including diversity based on enrollment of subgroups of students described in section 1111(c)(2) of the Act and student achievement. The plan must also include annual benchmarks toward achieving high-quality and consistent implementation across participating schools that are, as a group, demographically similar to the State as a whole during the demonstration authority period, using the demographics of initially participating schools as a baseline. (10 points, if applicable).

(b) *Prior experience, capacity, and stakeholder support.* (Up to 20 points).

(1) The extent and depth of prior experience that the SEA, including each SEA in a consortium, and its LEAs have in developing and implementing the components of the innovative assessment system. An SEA may also describe the prior experience of any external partners that will be participating in or supporting its demonstration authority in implementing those components. In evaluating the extent and depth of prior experience, the Secretary considers—

(i) The success and track record of efforts to implement innovative assessments or innovative assessment items aligned to the challenging State academic standards under section 1111(b)(1) of the Act in LEAs planning to participate; and

(ii) The SEA's or LEA's development or use of—

(A) Effective supports and appropriate accommodations consistent with 34 CFR 200.6(b) and (f)(1)(i) and section 1111(b)(2)(B)(vii) of the Act for administering innovative assessments to all students, including English learners and children with disabilities, which must include professional development for school staff on providing such accommodations;

(B) Effective and high-quality supports for school staff to implement innovative assessments and innovative assessment items, including professional development; and

(C) Standardized and calibrated tools, rubrics, methods, or other strategies for scoring innovative assessments, with documented evidence of the validity, reliability, and comparability of annual summative determinations of achievement, consistent with 34 CFR 200.105(b)(4) and (7). (5 points).

(2) The extent and depth of the SEA, including each SEA in a consortium, and LEA capacity to implement the innovative assessment system considering the availability of technological infrastructure; State and local laws; dedicated and sufficient staff, expertise, and resources; and other relevant factors. An SEA or consortium may also describe how it plans to enhance its capacity by collaborating with external partners that will be participating in or supporting its demonstration authority. In evaluating the extent and depth of capacity, the Secretary considers—

(i) The SEA's analysis of how capacity influenced the success of prior efforts to develop and implement innovative assessments or innovative assessment items; and

(ii) The strategies the SEA is using, or will use, to mitigate risks, including those identified in its analysis, and support successful implementation of the innovative assessment. (5 points).

(3) The extent and depth of State and local support for the application for demonstration authority in each SEA, including each SEA in a consortium, as demonstrated by signatures from the following:

(i) Superintendents (or equivalent) of LEAs, including participating LEAs in the first year of the demonstration authority period.

(ii) Presidents of local school boards (or equivalent, where applicable), including within participating LEAs in the first year of the demonstration authority.

(iii) Local teacher organizations (including labor organizations, where applicable), including within participating LEAs in the first year of the demonstration authority.

(iv) Other affected stakeholders, such as parent organizations, civil rights organizations, and business organizations. (10 points)

(c) *Timeline and budget.* (Up to 15 points)

The quality of the SEA's or consortium's timeline and budget for implementing the innovative assessment demonstration authority. In determining the quality of the timeline and budget, the Secretary considers—

(1) The extent to which the timeline reasonably demonstrates that each SEA will implement the system statewide by the end of the requested demonstration authority period, including a description of—

(i) The activities to occur in each year of the requested demonstration authority period;

(ii) The parties responsible for each activity; and

(iii) If applicable, how a consortium's member SEAs will implement activities at different paces and how the consortium will implement interdependent activities, so long as each non-affiliate member SEA begins using the innovative assessment in the same school year consistent with 34 CFR part 200.104(b)(2); (5 points) and

(2) The adequacy of the project budget for the duration of the requested demonstration authority period, including Federal, State, local, and non-public sources of funds to support and sustain, as applicable, the activities in the timeline under paragraph (c)(1) of this section, including—

(i) How the budget will be sufficient to meet the expected costs at each phase of the SEA's planned expansion of its innovative assessment system; and

(ii) The degree to which funding in the project budget is contingent upon future appropriations at the State or local level or additional commitments from non-public sources of funds. (10 points)

(d) *Supports for educators, students, and parents.* (Up to 25 points)

The quality of the SEA or consortium's plan to provide supports that can be delivered consistently at scale to educators, students, and parents to enable successful implementation of the innovative assessment system and improve instruction and student outcomes. In determining the quality of supports, the Secretary considers—

(1) The extent to which the SEA or consortium has developed, provided, and will continue to provide training to LEA and school staff, including teachers, principals, and other school leaders, that will familiarize them with the innovative assessment system and develop teacher capacity to implement instruction that is informed by the innovative assessment system and its results; (5 points if factor (4) is applicable; 9 points if factor (4) is inapplicable)

(2) The strategies the SEA or consortium has developed and will use to familiarize students and parents with the innovative assessment system; (5

points if factor (4) is applicable; 8 points if factor (4) is inapplicable)

(3) The strategies the SEA will use to ensure that all students and each subgroup of students under section 1111(c)(2) of the Act in participating schools receive the support, including appropriate accommodations consistent with 34 CFR 200.6(b) and (f)(1)(i) and section 1111(b)(2)(B)(vii) of the Act, needed to meet the challenging State academic standards under section 1111(b)(1) of the Act; (5 points if factor (4) is applicable; 8 points if factor (4) is inapplicable) and

(4) If the system includes assessment items that are locally developed or locally scored, the strategies and safeguards (*e.g.,* test blueprints, item and task specifications, rubrics, scoring tools, documentation of quality control procedures, inter-rater reliability checks, audit plans) the SEA or consortium has developed, or plans to develop, to validly and reliably score such items, including how the strategies engage and support teachers and other staff in designing, developing, implementing, and validly and reliably scoring high-quality assessments; how the safeguards are sufficient to ensure unbiased, objective scoring of assessment items; and how the SEA will use effective professional development to aid in these efforts. (10 points if applicable)

(e) *Evaluation and continuous improvement.* (Up to 20 points)

The quality of the SEA's or consortium's plan to annually evaluate its implementation of innovative assessment demonstration authority. In determining the quality of the evaluation, the Secretary considers—

(1) The strength of the proposed evaluation of the innovative assessment system included in the application, including whether the evaluation will be conducted by an independent, experienced third party, and the likelihood that the evaluation will sufficiently determine the system's validity, reliability, and comparability to the statewide assessment system consistent with the requirements of 34 CFR 200.105(b)(4) and (9); (12 points) and

(2) The SEA's or consortium's plan for continuous improvement of the innovative assessment system, including its process for—

(i) Using data, feedback, evaluation results, and other information from participating LEAs and schools to make changes to improve the quality of the innovative assessment; and

(ii) Evaluating and monitoring implementation of the innovative assessment system in participating LEAs and schools annually. (8 points)

2. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205(c) and 200.207, before approving a project under this authority, the Department may conduct a review of the risks posed by the applicant and impose specific conditions as needed.

VI. Administration Information

1. *Approval Notices:* If your application is approved, we notify your U.S. Representative and U.S. Senators and send you a letter or email approving your project.

If your application is not selected, we notify you.

2. *Programmatic Requirements:* Your application must address the programmatic requirements in section 1204 of the ESEA and 34 CFR 200.104 through 200.108.

3. *Reporting:* (a) If you apply under this program, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements should your application be approved.

(b) You must submit, at the end of each year of your project period, an annual update on program activity according to the requirements of 34 CFR 200.105(d)(3).

4. *Transition to Statewide Use:* Pursuant to 34 CFR 200.107—

(a)(1) After an SEA has scaled its innovative assessment system to operate statewide in all schools and LEAs in the State, the SEA must submit evidence for peer review under section 1111(a)(4) of the Act and 34 CFR 200.2(d) to determine whether the system may be used for purposes of both academic assessments and the State accountability system under sections 1111(b)(2), (c), and (d) and 1003 of the Act.

(2) An SEA may only use the innovative assessment system for the purposes described in paragraph (a)(1) of this section if the Secretary determines that the system is of high quality consistent with paragraph (b) of this section.

(b) Through the peer review process of State assessments and accountability systems under section 1111(a)(4) of the Act and 34 CFR 200.2(d), the Secretary determines that the innovative assessment system is of high quality if—

(1) An innovative assessment developed in any grade or subject under 34 CFR 200.5(a)(1) and section 1111(b)(2)(B)(v) of the Act—

(i) Meets all of the requirements under section 1111(b)(2) of the Act and 34 CFR 200.105(b) and (c);

(ii) Provides coherent and timely information about student achievement based on the challenging State academic standards under section 1111(b)(1) of the Act;

(iii) Includes objective measurements of academic achievement, knowledge, and skills; and

(iv) Is valid, reliable, and consistent with relevant, nationally recognized professional and technical standards;

(2) The SEA provides satisfactory evidence that it has examined the statistical relationship between student performance on the innovative assessment in each subject area and student performance on other measures of success, including the measures used for each relevant grade-span within the remaining indicators (*i.e.,* indicators besides Academic Achievement) in the statewide accountability system under section 1111(c)(4)(B)(ii)–(v) of the Act, and how the inclusion of the innovative assessment in its Academic Achievement indicator under section 1111(c)(4)(B)(i) of the Act affects the annual meaningful differentiation of schools under section 1111(c)(4)(C) of the Act;

(3) The SEA has solicited information, consistent with the requirements under 34 CFR 200.105(d)(3)(iv), and taken into account feedback from teachers, principals, other school leaders, parents, and other stakeholders under 34 CFR 200.105(a)(2) about their satisfaction with the innovative assessment system; and

(4) The SEA has demonstrated that the same innovative assessment system was used to measure—

(i) The achievement of all students and each subgroup of students described in section 1111(c)(2) of the Act, and that appropriate accommodations were provided consistent with 34 CFR 200.6(b) and (f)(1)(i) under section 1111(b)(2)(B)(vii) of the Act; and

(ii) For purposes of the State accountability system consistent with section 1111(c)(4)(E) of the Act, progress on the Academic Achievement indicator under section 1111(c)(4)(B)(i) of the Act of at least 95 percent of all students, and 95 percent of students in each subgroup of students described in section 1111(c)(2) of the Act.

(c) With respect to the evidence submitted to the Secretary to make the determination described in paragraph (b)(2) of this section, the baseline year for any evaluation is the first year that a participating LEA in the State administered the innovative assessment system under the demonstration authority.

(d) In the case of a consortium of SEAs, evidence may be submitted for the consortium as a whole so long as the

evidence demonstrates how each member SEA meets each requirement of paragraph (b) of this section applicable to an SEA.

5. *Continuation of Authority:* Pursuant to 34 CFR 200.108—

(a) The Secretary may extend an SEA's demonstration authority period for no more than two years if the SEA submits to the Secretary—

(1) Evidence that its innovative assessment system continues to meet the requirements under 34 CFR 200.105 and the SEA continues to implement the plan described in its application in response to the selection criteria in 34 CFR 200.106 in all participating schools and LEAs;

(2) A high-quality plan, including input from stakeholders under 34 CFR 200.105(a)(2), for transitioning to statewide use of the innovative assessment system by the end of the extension period; and

(3) A demonstration that the SEA and all LEAs that are not yet fully implementing the innovative assessment system have sufficient capacity to support use of the system statewide by the end of the extension period.

(b) In the case of a consortium of SEAs, the Secretary may extend the demonstration authority period for the consortium as a whole or for an individual member SEA.

6. *Withdrawal of Demonstration Authority.* (a) The Secretary may withdraw the innovative assessment demonstration authority provided to an SEA, including an individual SEA member of a consortium, if at any time during the approved demonstration authority period or extension period, the Secretary requests, and the SEA does not present in a timely manner—

(1) A high-quality plan, including input from stakeholders under 34 CFR 200.105(a)(2), to transition to full statewide use of the innovative assessment system by the end of its approved demonstration authority period or extension period, as applicable; or

(2) Evidence that—

(i) The innovative assessment system meets all requirements under 34 CFR 200.105, including a demonstration that the innovative assessment system has met the requirements under 34 CFR 200.105(b);

(ii) The SEA continues to implement the plan described in its application in response to the selection criteria in 34 CFR 200.106;

(iii) The innovative assessment system includes and is used to assess all students attending participating schools in the demonstration authority, consistent with the requirements under section 1111(b)(2) of the Act to provide for participation in State assessments, including among each subgroup of students described in section 1111(c)(2) of the Act, and for appropriate accommodations consistent with 34 CFR 200.6(b) and (f)(1)(i) and section 1111(b)(2)(B)(vii) of the Act;

(iv) The innovative assessment system provides an unbiased, rational, and consistent determination of progress toward the State's long-term goals and measurements of interim progress for academic achievement under section 1111(c)(4)(A) of the Act for all students and subgroups of students described in section 1111(c)(2) of the Act and a comparable measure of student performance on the Academic Achievement indicator under section 1111(c)(4)(B)(i) of the Act for participating schools relative to non-participating schools; or

(v) The innovative assessment system demonstrates comparability to the statewide assessments under section 1111(b)(2) of the Act in content coverage, difficulty, and quality.

(b)(1) In the case of a consortium of SEAs, the Secretary may withdraw innovative assessment demonstration authority for the consortium as a whole at any time during its demonstration authority period or extension period if the Secretary requests, and no member of the consortium provides, the information under paragraph (a)(1) or (2) of this section.

(2) If innovative assessment demonstration authority for one or more SEAs in a consortium is withdrawn, the consortium may continue to implement the authority if it can demonstrate, in an amended application to the Secretary that, as a group, the remaining SEAs continue to meet all requirements and selection criteria in 34 CFR 200.105 and 200.106.

7. *Waiver authority.* (a) At the end of the extension period, an SEA that is not yet approved consistent with 34 CFR 200.107 to implement its innovative assessment system statewide may request a waiver from the Secretary consistent with section 8401 of the Act to delay the withdrawal of authority under paragraph (6) of this section for the purpose of providing the SEA with the time necessary to receive approval to transition to use of the innovative assessment system statewide under 34 CFR 200.107(b).

(b) The Secretary may grant an SEA a one-year waiver to continue the innovative assessment demonstration authority, if the SEA submits, in its request under paragraph (7)(a) of this section, evidence satisfactory to the Secretary that it—

(1) Has met all of the requirements under paragraph (6)(a) of this section and of 34 CFR 200.105 and 200.106; and

(2) Has a high-quality plan, including input from stakeholders under 34 CFR 200.105(a)(2), for transition to statewide use of the innovative assessment system, including peer review consistent with 34 CFR 200.107, in a reasonable period of time.

(c) In the case of a consortium of SEAs, the Secretary may grant a one-year waiver consistent with paragraph (7)(a) of this section for the consortium as a whole or for individual member SEAs, as necessary.

8. *Return to the Statewide Assessment System.* If the Secretary withdraws innovative assessment demonstration authority consistent with paragraph (6) of this section, or if an SEA voluntarily terminates use of its innovative assessment system prior to the end of its demonstration authority, extension, or waiver period under paragraph (7) of this section, as applicable, the SEA must—

(a) Return to using, in all LEAs and schools in the State, a statewide assessment that meets the requirements of section 1111(b)(2) of the Act; and

(b) Provide timely notice to all participating LEAs and schools of the withdrawal of authority and the SEA's plan for transition back to use of a statewide assessment.

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: October 23, 2019.

Frank T. Brogan,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2019–23477 Filed 10–25–19; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Meeting: Technical Guidelines Development Committee; "Voluntary Voting Systems Guidelines and Usability Requirements"

AGENCY: U.S. Election Assistance Commission.

ACTION: Notice of conference call meeting.

DATES: Friday, November 1, 2019, 2:30–4:30 p.m. (EDT).

ADDRESSES: EAC Technical Guidelines Development Committee Conference Call.

To listen and monitor the event as an attendee:

1. Go to *https://zoom.us/j/818094768?pwd=djRrVlFoa2hvRjE0ckMrK0hsV3dIdz09.*

2. Enter Meeting ID: 818 094 768, Password: 181296:

One tap mobile
+19292056099,,818094768# U.S. (New York)
+16699006833,,818094768# U.S. (San Jose)
Dial by your location
+1 929 205 6099 U.S. (New York)
+1 669 900 6833 U.S. (San Jose)
877 853 5247 U.S. Toll-free
888 788 0099 U.S. Toll-free
Meeting ID: 818 094 768

Find your local number: https://zoom.us/u/abFOYE5rh. For assistance, contact the host, Jerome Lovato at *https://www.eac.gov/contact/.*

FOR FURTHER INFORMATION CONTACT: Jerome Lovato, Telephone: (301) 563–3929.

SUPPLEMENTARY INFORMATION:

Purpose: In accordance with the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. Appendix 2), the U.S. Election Assistance Commission (EAC) Technical Guidelines Development Committee will conduct a conference call to discuss Voluntary Voting System Guidelines and Usability Requirements.

Agenda: The Technical Guidelines Development Committee (TGDC) will discuss the Voluntary Voting System Guidelines 2.0 (VVSG 2.0) Technical Requirements. The TGDC will discuss the next TGDC meeting dates and the continuing steps to develop the Requirements. There may be votes conducted on this call.

The TGDC will discuss the Technical Requirements of the VVSG 2.0. Draft VVSG Requirements can be found at the TWiki page link: *https://collaborate.nist.gov/voting/bin/view/Voting/VVSG20DraftRequirements.* The most current version of the draft VVSG 2.0 Requirements is clearly marked at the top of the page to ensure the latest version is the topic of discussion at the time of the meetings. As stated in the disclaimer (and in each document), the Requirements are in a draft state and are not yet ready for final posting in their current form. These are provided ''as is'' for facilitating our on-going discussions, but do not yet represent an official or final version. Members of the public may submit relevant written statements about the meeting's content to the TGDC no later than 3:00 p.m. EDT on Thursday, October 31, 2019.

Statements may be sent electronically via *https://www.eac.gov/contact/,* via standard mail addressed to the U.S. Election Assistance Commission, TGDC, 1335 East-West Highway, Suite 4300, Silver Spring, MD 20910, or by fax at 301–734–3108. Notice of this meeting is being published less than 15 days prior to the meeting date and time in order to ensure a quorum prior to the 15 day publication requirement.

This conference call will be open to the public.

Dated: October 22, 2019.

Clifford D. Tatum,

General Counsel, U.S. Election Assistance Commission.

[FR Doc. 2019–23405 Filed 10–25–19; 8:45 am]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, November 13, 2019; 1:00 p.m.–5:15 p.m.

ADDRESSES: The Lodge at Santa Fe, 720 North St. Francis Drive, Santa Fe, New Mexico 87501.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board (NNMCAB), 94 Cities of Gold Road, Santa Fe, NM 87506. Phone (505) 995–0393; Fax (505) 989–1752 or Email: *Menice.Santistevan@em.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- Call to Order
- Welcome and Introductions
- Approval of Agenda
- Approval of September 25, 2019 Meeting Minutes
- Old Business
  - Report from NNMCAB Chair
  - Consideration and Action on Draft Recommendation 2019–04, ''Establishing Several Open Forum Public Meetings''
  - Other Items
- New Business
- Presentation on Surface Water Monitoring
- Break
- Presentation on Draft Contractor Performance Baseline
- Public Comment Period
- Update from New Mexico Environment Department
- Update from EM Los Alamos Field Office
- Update from NNMCAB Deputy Designated Federal Officer and Executive Director
- Wrap-Up Comments from NNMCAB Members
- Adjourn

Public Participation: The meeting is open to the public. The EM SSAB, Northern New Mexico, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Menice Santistevan at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal

Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or telephone number listed above. Minutes and other Board documents are on the internet at: *https://www.energy.gov/em/nnmcab/meeting-materials.*

Signed in Washington, DC, on October 23, 2019.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2019–23475 Filed 10–25–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, November 13, 2019; 6:00 p.m.

ADDRESSES: DOE Information Center, Office of Science and Technical Information, 1 Science.gov Way, Oak Ridge, Tennessee 37831.

FOR FURTHER INFORMATION CONTACT: Melyssa P. Noe, Alternate Deputy Designated Federal Officer, U.S. Department of Energy, Oak Ridge Office of Environmental Management (OREM), P.O. Box 2001, EM–942, Oak Ridge, TN 37831. Phone (865) 241–3315; Fax (865) 241–6932; Email: *Melyssa.Noe@orem.doe.gov.* Or visit the website at *https://www.energy.gov/orem/services/community-engagement/oak-ridge-site-specific-advisory-board.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- Welcome and Announcements
- Comments from the Deputy Designated Federal Officer (DDFO)
- Comments from the DOE, Tennessee Department of Environment and Conservation, and Environmental Protection Agency Liaisons
- Presentation: Update on Project Initiatives at the Molten Salt Reactor Experiment
- Public Comment Period
- Motions/Approval of September 11, 2019 and October 9, 2019 Meeting Minutes
- Status of Outstanding Recommendations
- Alternate DDFO Report
- Committee Reports
- Adjourn

Public Participation: The meeting is open to the public. The EM SSAB, Oak Ridge, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Melyssa P. Noe at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Melyssa P. Noe at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Melyssa P. Noe at the address and phone number listed above. Minutes will also be available at the following website: *https://www.energy.gov/orem/listings/oak-ridge-site-specific-advisory-board-meetings.*

Signed in Washington, DC, on October 23, 2019.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2019–23476 Filed 10–25–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, November 13, 2019; 4:00 p.m.

ADDRESSES: Frank H. Rogers Science and Technology Building, 755 East Flamingo, Las Vegas, Nevada 89119.

FOR FURTHER INFORMATION CONTACT: Barbara Ulmer, Board Administrator, 100 North City Parkway, Suite 1750, Las Vegas, Nevada 89106. Phone: (702) 523–0894; Fax (702) 724–0981 or Email: *nssab@emcbc.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Educational Session: How Much Tritium is in a Liter of Water Containing 20,000 pCi/L? and What is My Risk Due to Exposure?
2. Briefing and Recommendation Development for Test Cell C Path Forward—Work Plan Item #3
3. Briefing and Recommendation Development for Yucca Flat/Climax Mine Long-Term Monitoring Network—Work Plan Item #5

Public Participation: The meeting is open to the public. The EM SSAB, Nevada, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Barbara Ulmer at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Barbara Ulmer at the telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments can do so during the 15 minutes allotted for public comments.

Minutes: Minutes will be available by writing to Barbara Ulmer at the address listed above or at the following website: *http://www.nnss.gov/NSSAB/pages/MM_FY20.html.*

Signed in Washington, DC, on October 23, 2019.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2019–23474 Filed 10–25–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–134–000]

Cardinal Point LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Cardinal Point LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 7, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 18, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–23494 Filed 10–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC20–12–000.
Applicants: Gauley River Power Partners, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of Gauley River Power Partners, LLC.
Filed Date: 10/21/19.
Accession Number: 20191021–5095.
Comments Due: 5 p.m. ET 11/12/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–646–002.
Applicants: Chambersburg Energy, LLC.
Description: Report Filing: Refund Report Informational Filings to be effective N/A.
Filed Date: 10/21/19.
Accession Number: 20191021–5214.
Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER18–647–002.
Applicants: Gans Energy, LLC.
Description: Report Filing: Refund Report Informational Filings to be effective N/A.
Filed Date: 10/21/19.
Accession Number: 20191021–5216.
Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER18–648–002.
Applicants: Springdale Energy, LLC.
Description: Report Filing: Refund Report Informational Filings to be effective N/A.
Filed Date: 10/21/19.
Accession Number: 20191021–5217.
Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER18–1384–002.
Applicants: Buchanan Generation, LLC.
Description: Report Filing: Refund Report Informational Filings to be effective N/A.
Filed Date: 10/21/19.
Accession Number: 20191021–5218.
Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER19–2823–000.
Applicants: Isabella Wind, LLC.
Description: Supplement to September 17, 2019 Isabella Wind, LLC tariff filing.
Filed Date: 10/18/19.
Accession Number: 20191018–5242.
Comments Due: 5 p.m. ET 10/28/19.

Docket Numbers: ER20–158–000.
Applicants: Genbright LLC.
Description: Petition for Limited Waiver, et al. of Genbright, LLC.
Filed Date: 10/21/19.
Accession Number: 20191021–5258.
Comments Due: 5 p.m. ET 11/4/19.

Docket Numbers: ER20–159–000.
Applicants: Midcontinent Independent System Operator, Inc., Pioneer Transmission LLC.
Description: § 205(d) Rate Filing: 2019–10–22_Pioneer Regulatory Asset Recovery Filing to be effective 1/1/2020.
Filed Date: 10/22/19.
Accession Number: 20191022–5027.
Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–160–000.
Applicants: Brea Generation LLC.
Description: Tariff Cancellation: Notice of Cancellation to be effective 10/23/2019.
Filed Date: 10/22/19.
Accession Number: 20191022–5032.
Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–161–000.
Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.
Description: § 205(d) Rate Filing: Amended E&P Agreement (SA 2471) Niagara Mohawk and Invenergy Wind Development to be effective 10/1/2019.
Filed Date: 10/22/19.
Accession Number: 20191022–5058.
Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–162–000.
Applicants: Tucson Electric Power Company.
Description: § 205(d) Rate Filing: Concurrence to APS RS No. 297 to be effective 12/1/2019.
Filed Date: 10/22/19.
Accession Number: 20191022–5090.
Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–163–000.
Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–10–22_SA 2328 California Ridge-Ameren 3rd Rev GIA (H100 J196) to be effective 10/23/2019.

Filed Date: 10/22/19.

Accession Number: 20191022–5095.

Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–164–000.

Applicants: Northern Indiana Public Service Company.

Description: § 205(d) Rate Filing: Filing of a CIAC Agreement to be effective 12/21/2019.

Filed Date: 10/22/19.

Accession Number: 20191022–5115.

Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–165–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: UAMPS Construction Agmt—Morgan Temp Tap Rev 1 to be effective 12/22/2019.

Filed Date: 10/22/19.

Accession Number: 20191022–5116.

Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–166–000.

Applicants: Florida Power & Light Company.

Description: § 205(d) Rate Filing: FPL and LCEC Revisions to Rate Schedule FERC No. 317 to be effective 1/1/2018.

Filed Date: 10/22/19.

Accession Number: 20191022–5153.

Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–167–000.

Applicants: Florida Power & Light Company.

Description: § 205(d) Rate Filing: FPL and FKEC Revisions to Rate Schedule FERC No. 322 to be effective 1/1/2018.

Filed Date: 10/22/19.

Accession Number: 20191022–5155.

Comments Due: 5 p.m. ET 11/12/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 22, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–23518 Filed 10–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EI19–101–000]

Southwest Power Pool, Inc.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On October 17, 2019, the Commission issued an order in Docket No. EL19–101–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2018), instituting a proceeding concerning the justness and reasonableness of Southwest Power Pool, Inc.'s resource adequacy minimum run-time requirement. *Southwest Power Pool, Inc.,* 169 FERC 61,048 (2019).

The refund effective date in Docket No. EL19–101–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL19–101–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2019), within 21 days of the date of issuance of the order.

Dated: October 18, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–23495 Filed 10–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14985–001]

Cherokee Rivers Company, 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.:* 14985–001.

c. *Date Filed:* August 22, 2019.

d. *Submitted By:* Cherokee Rivers Company, LLC (Cherokee Rivers).

e. *Name of Project:* Lower Coosawattee Hydroelectric Project.

f. *Location:* Located at the U.S. Army Corps of Engineers' (Corps) existing Carters Reregulation Dam, located on the Coosawattee River in Murray County, Georgia. The project would occupy 1.35 acres of federal land administered by the Corps.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Robert Davis, 390 Timber Laurel Lane, Lawrenceville, GA 30043; phone: (470) 331–8238.

i. *FERC Contact:* Dustin Wilson at (202) 502–6528; or email at *dustin.wilson@ferc.gov.*

j. Cherokee Rivers filed its request to use the Traditional Licensing Process on August 22, 2019. Cherokee Rivers provided public notice of its request on August 14, 2019. In a letter dated October 18, 2019, the Director of the Division of Hydropower Licensing approved Cherokee Rivers' request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402. We are also initiating consultation with the Georgia State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Cherokee Rivers as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Cherokee Rivers filed a Pre-Application Document (PAD); including a proposed process plan and schedule with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room, or may be viewed on the Commission's website (*http://www.ferc.gov*) using the eLibrary link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and

reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for an original license for Project No. 14985.

p. 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: October 18, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–23491 Filed 10–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP20–78–000.
Applicants: Columbia Gas Transmission, LLC.
Description: Pre-Arranged/Pre-Agreed (Offer of Settlement and Petition for Approval) Filing of Columbia Gas Transmission, LLC under RP20–78.
Filed Date: 10/18/19.
Accession Number: 20191018–5233.
Comments Due: 5 p.m. ET 10/30/19.

Docket Numbers: RP19–1546–001.
Applicants: Gas Transmission Northwest LLC.
Description: Compliance filing Compliance to RP19–1546–000 (36-month ROFR) to be effective 10/6/2019.
Filed Date: 10/21/19.
Accession Number: 20191021–5099.
Comments Due: 5 p.m. ET 11/4/19.

Docket Numbers: RP20–79–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Compliance filing Algonquin Request for Waivers and Request for Shortened Comment Period.
Filed Date: 10/21/19.
Accession Number: 20191021–5220.
Comments Due: 5 p.m. ET 10/28/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 22, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–23519 Filed 10–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Staff Attendance at The Southwest Power Pool, Inc. Regional State Committee, Members' Committee, and Board of Directors' Meetings

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of its staff may attend the meetings of the Southwest Power Pool, Inc. (SPP) Regional State Committee (RSC), Members' Committee, and Board of Directors, as noted below. Their attendance is part of the Commission's ongoing outreach efforts.

The meetings will be held at the SPP Corporate Center, 201 Worthen Drive, Little Rock, AR 72223–4936. The phone number is (501) 614–3200. All meetings are Central Time.

SPP RSC
October 28, 2019 (1:00 p.m.–4:30 p.m.)

SPP Members/Board of Directors
October 29, 2019 (8:00 a.m.–2:00 p.m.)

The discussions may address matters at issue in the following proceedings:

Docket No. AD16–16, *Implementation Issues Under the Public Utility Regulatory Policies Act of 1978*
Docket No. AD18–8, *Reform of Affected System Coordination in the Generator Interconnection Process*
Docket No. EL16–91, *Southwest Power Pool, Inc.*
Docket No. EL17–21, *Kansas Electric Co.* v. *Southwest Power Pool, Inc.*
Docket No. EL17–89, *American Electric Power Service Corporation* v. *Midcontinent Independent System Operator, Inc., et al.*
Docket No. EL18–9, *Xcel Energy Services, Inc.* v. *Southwest Power Pool, Inc.*
Docket No. EL18–19, *Southwest Power Pool, Inc.*
Docket No. EL18–26, *EDF Renewable Energy, Inc.* v. *Midcontinent Independent System Operator, Inc., Southwest Power Pool, Inc., and PJM Interconnection, L.L.C.*
Docket No. EL18–35, *Southwest Power Pool, Inc.*
Docket No. EL18–58, *Oklahoma Municipal Power Authority* v. *Oklahoma Gas and Electric Co.*
Docket No. EL18–194, *Nebraska Public Power District* v. *Tri-State Generation and Transmission Association, Inc. and Southwest Power Pool, Inc.*
Docket No. EL19–11, *American Wind Energy Association and the Wind Coalition* v. *Southwest Power Pool, Inc.*
Docket No. EL19–60, *City of Prescott, Arkansas* v. *Southwestern Electric Power Company and Midcontinent Independent System Operator, Inc.*
Docket No. EL19–62, *City Utilities of Springfield, Missouri* v. *Southwest Power Pool, Inc.*
Docket No. EL19–75, *EDF Renewables, Inc., et al.* v. *Southwest Power Pool, Inc.*
Docket No. EL19–77, *Oklahoma Gas and Electric Co.* v. *Southwest Power Pool, Inc.*
Docket No. EL19–80, *Kansas Corporation Commission*
Docket No. EL19–83, *City of Lubbock* v. *Public Service Company of Colorado, et al.*
Docket No. EL19–93, *Western Farmers Electric Cooperative* v. *Southwest Power Pool, Inc.*
Docket No. EL19–96, *Cimarron Windpower II, LLC* v. *Southwest Power Pool, Inc.*
Docket No. ER09–548, *Kansas Corporation Commission*
Docket No. ER15–2028, *Southwest Power Pool, Inc.*
Docket No. ER15–2115, *Southwest Power Pool, Inc.*
Docket No. ER15–2594, *GridLiance High Plains LLC*
Docket No. ER16–204, *Southwest Power Pool, Inc.*
Docket No. ER16–505, *GridLiance High Plains LLC*
Docket No. ER16–1341, *Southwest Power Pool, Inc.*
Docket No. ER17–953, *GridLiance High Plains LLC*
Docket No. ER18–99, *Southwest Power Pool, Inc.*
Docket No. ER18–194, *Southwest Power Pool, Inc.*
Docket No. ER18–195, *Southwest Power Pool, Inc.*

Docket No. ER18–939, *Southwest Power Pool, Inc.*
Docket No. ER18–1267, *GridLiance High Plains LLC*
Docket No. ER18–1702, *Southwest Power Pool, Inc.*
Docket No. ER18–2358, *Southwest Power Pool, Inc.*
Docket No. ER18–2404, *Southwest Power Pool, Inc.*
Docket No. ER19–456, *Southwest Power Pool, Inc.*
Docket No. ER19–460, *Southwest Power Pool, Inc.*
Docket No. ER19–477, *Southwest Power Pool, Inc.*
Docket No. ER19–1357, *GridLiance High Plains LLC*
Docket No. ER19–1396, *American Electric Power Service Corporation*
Docket No. ER19–1579, *Southwest Power Pool, Inc.*
Docket No. ER19–1672, *Southwest Power Pool, Inc.*
Docket No. ER19–1680, *Southwest Power Pool, Inc.*
Docket No. ER19–1683, *Wildhorse Wind Energy*
Docket No. ER19–1928, *Southwest Power Pool, Inc.*
Docket No. ER19–1954, *Southwest Power Pool, Inc.*
Docket No. ER19–1980, *Southwest Power Pool, Inc.*
Docket No. ER19–2273, *Southwest Power Pool, Inc.*
Docket No. ER19–2484, *Southwest Power Pool, Inc.*
Docket No. ER19–2501, *Southwest Power Pool, Inc.*
Docket No. ER19–2508, *Southwest Power Pool, Inc.*
Docket No. ER19–2509, *Southwest Power Pool, Inc.*
Docket No. ER19–2525, *Southwest Power Pool, Inc.*
Docket No. ER19–2535, *Southwest Power Pool, Inc.*
Docket No. ER19–2548, *Southwest Power Pool, Inc.*
Docket No. ER19–2550, *Southwest Power Pool, Inc.*
Docket No. ER19–2627, *Southwest Power Pool, Inc.*
Docket No. ER19–2640, *Southwest Power Pool, Inc.*
Docket No. ER19–2669, *Southwest Power Pool, Inc.*
Docket No. ER19–2681, *Southwest Power Pool, Inc.*
Docket No. ER19–2700, *Southwest Power Pool, Inc.*
Docket No. ER19–2730, *Southwest Power Pool, Inc.*
Docket No. ER19–2747, *Southwest Power Pool, Inc.*
Docket No. ER19–2748, *Southwest Power Pool, Inc.*
Docket No. ER19–2773, *Southwest Power Pool, Inc.*
Docket No. ER19–2813, *Southwest Power Pool, Inc.*
Docket No. ER19–2825, *Southwest Power Pool, Inc.*
Docket No. ER19–2827, *Southwest Power Pool, Inc.*
Docket No. ER19–2831, *Southwest Power Pool, Inc.*
Docket No. ER19–2845, *Southwest Power Pool, Inc.*
Docket No. ER19–2865, *Southwest Power Pool, Inc.*
Docket No. RM17–8, *Reform of Generator Interconnection Procedures and Agreements*

This meeting is open to the public.

For more information, contact Patrick Clarey, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov.*

Dated: October 18, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–23488 Filed 10–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC20–11–000.
Applicants: Xcel Energy Inc., Jeffers Wind 20, LLC, Community Wind North, LLC, North Community Turbines LLC, North Wind Turbines LLC, Community Wind North 1 LLC, Community Wind North 2 LLC, Community Wind North 3 LLC, Community Wind North 5 LLC, Community Wind North 6 LLC, Community Wind North 7 LLC, Community Wind North 8 LLC, Community Wind North 9 LLC, Community Wind North 10 LLC, Community Wind North 11 LLC, Community Wind North 13 LLC, Community Wind North 15 LLC.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act, et al. of Xcel Energy Inc., et al.
Filed Date: 10/18/19.
Accession Number: 20191018–5234.
Comments Due: 5 p.m. ET 11/8/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–1901–001.
Applicants: Southwest Power Pool, Inc.
Description: Compliance filing: Notice of Effective Date in ER19–1901—Minimum Daily Contingency Reserve to be effective N/A.
Filed Date: 10/21/19.
Accession Number: 20191021–5110.
Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER19–2716–000.
Applicants: Madison BTM, LLC.
Description: Supplement to August 30, 2019 Madison BTM, LLC tariff filing.
Filed Date: 10/21/19.
Accession Number: 20191021–5040.
Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER19–2717–000.
Applicants: Madison ESS, LLC.
Description: Supplement to August 30, 2019 Madison ESS, LLC tariff filing.
Filed Date: 10/21/19.
Accession Number: 20191021–5038.
Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–144–000.
Applicants: Northern States Power Company, a Minnesota corporation, Jeffers Wind 20, LLC, Community Wind North, LLC, North Community Turbines LLC, North Wind Turbines LLC.
Description: Request for Authorization of Affiliate Transactions of Northern States Power Company, a Minnesota corporation, et al.
Filed Date: 10/18/19.
Accession Number: 20191018–5236.
Comments Due: 5 p.m. ET 11/8/19.

Docket Numbers: ER20–145–000.
Applicants: Oak Creek Wind Power, LLC.
Description: Tariff Cancellation: Notice of Cancellation to be effective 10/22/2019.
Filed Date: 10/21/19.
Accession Number: 20191021–5076.
Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–146–000.
Applicants: ON Wind Energy LLC.
Description: Tariff Cancellation: Notice of Cancellation to be effective 10/22/2019.
Filed Date: 10/21/19.
Accession Number: 20191021–5078.
Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–147–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of WMPA SA No. 5090; Queue No. AC1–209 to be effective 12/2/2019.
Filed Date: 10/21/19.
Accession Number: 20191021–5092.
Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–148–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original ISA SA No. 5493; Queue No. AC1–107 to be effective 9/20/2019.
Filed Date: 10/21/19.
Accession Number: 20191021–5106.

Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–149–000.

Applicants: New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 205: EPC Agreement no. 2476 among NYISO, Alcoa, HQUS for Cedar Rapids to be effective 10/4/2019.

Filed Date: 10/21/19.

Accession Number: 20191021–5124.

Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–150–000.

Applicants: EverPower Commercial Services LLC.

Description: Tariff Cancellation: Cancellation complete tariff to be effective 10/22/2019.

Filed Date: 10/21/19.

Accession Number: 20191021–5128.

Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–151–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–10–21_SA 3364 NIPSCO-Indiana Crossroads Wind Farm GIA (J837 J838) to be effective 10/7/2019.

Filed Date: 10/21/19.

Accession Number: 20191021–5134.

Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–152–000.

Applicants: Alabama Power Company.

Description: § 205(d) Rate Filing: Americus Solar (Americus Solar II) LGIA Filing to be effective 10/7/2019.

Filed Date: 10/21/19.

Accession Number: 20191021–5136.

Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–153–000.

Applicants: Exelon Corporation.

Description: Petition for Limited Waiver, et al. of Exelon Corporation.

Filed Date: 10/21/19.

Accession Number: 20191021–5137.

Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–155–000.

Applicants: Alabama Power Company.

Description: § 205(d) Rate Filing: Boggy Branch Solar LGIA Filing to be effective 10/10/2019.

Filed Date: 10/21/19.

Accession Number: 20191021–5144.

Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–156–000.

Applicants: Alabama Power Company.

Description: § 205(d) Rate Filing: Indian Springs Solar LGIA Filing to be effective 10/7/2019.

Filed Date: 10/21/19.

Accession Number: 20191021–5151.

Comments Due: 5 p.m. ET 11/12/19.

Docket Numbers: ER20–157–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of WMPA, SA No. 4391; Queue No. AB1–020 to be effective 11/12/2019.

Filed Date: 10/21/19.

Accession Number: 20191021–5177.

Comments Due: 5 p.m. ET 11/12/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 21, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–23423 Filed 10–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR19–54–001.

Applicants: Impulsora Pipeline, LLC.

Description: Tariff filing per 284.123(b),(e)/: Amendment to 1 to be effective 3/5/2019.

Filed Date: 10/17/19.

Accession Number: 201910175071.

Comments/Protests Due: 5 p.m. ET 11/7/19.

Docket Number: PR20–2–000.

Applicants: Valley Crossing Pipeline, LLC.

Description: Tariff filing per 284.123(b)(2),(g): Valley Crossing Pipeline, LLC Baseline SOC to be effective 10/18/2019.

Filed Date: 10/18/19.

Accession Number: 201910185077.

Comments Due: 5 p.m. ET 11/8/19.

284.123(g) Protests Due: 5 p.m. ET 12/17/19.

Docket Numbers: RP19–741–002.

Applicants: ANR Pipeline Company.

Description: Compliance filing ANR 2019 Fuel Compliance Filing to be effective 4/1/2019.

Filed Date: 10/17/19.

Accession Number: 20191017–5134.

Comments Due: 5 p.m. ET 10/29/19.

Docket Numbers: RP19–847–001.

Applicants: PGPipeline LLC.

Description: Compliance filing PGPipeline LLC Additional NAESB Compliance Filing to be effective 8/1/2019.

Filed Date: 10/17/19.

Accession Number: 20191017–5032.

Comments Due: 5 p.m. ET 10/29/19.

Docket Numbers: RP20–72–000.

Applicants: Colorado Interstate Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Black Hills Assigment TSA # 214677–TF1CIG to be effective 10/1/2019.

Filed Date: 10/17/19.

Accession Number: 20191017–5084.

Comments Due: 5 p.m. ET 10/29/19.

Docket Numbers: RP20–73–000.

Applicants: Destin Pipeline Company, L.L.C.

Description: § 4(d) Rate Filing: Destin Pipeline—Negotiated Rate Agreement Filing to be effective 12/1/2019.

Filed Date: 10/17/19.

Accession Number: 20191017–5098.

Comments Due: 5 p.m. ET 10/29/19.

Docket Numbers: RP20–74–000.

Applicants: Wyoming Interstate Company, L.L.C.

Description: § 4(d) Rate Filing: Name Change and Housekeeping Matters to be effective 10/3/2019.

Filed Date: 10/17/19.

Accession Number: 20191017–5099.

Comments Due: 5 p.m. ET 10/29/19.

Docket Numbers: RP20–75–000.

Applicants: Natural Gas Pipeline Company of America.

Description: § 4(d) Rate Filing: Negotiated Rate Agreement—Citadel Energy to be effective 11/1/2019.

Filed Date: 10/18/19.

Accession Number: 20191018–5000.

Comments Due: 5 p.m. ET 10/30/19.

Docket Numbers: RP20–76–000.

Applicants: Centra Pipelines Minnesota Inc.

Description: § 4(d) Rate Filing: Updated Shipper Index Dec 2019 to be effective 12/1/2019.

Filed Date: 10/18/19.

Accession Number: 20191018–5065.

Comments Due: 5 p.m. ET 10/30/19.

Docket Numbers: RP20–77–000.

Applicants: Natural Gas Pipeline Company of America.

Description: § 4(d) Rate Filing: Negotiated Rate Agreements—

Macquarie Energy to be effective 11/1/2019.

Filed Date: 10/18/19.

Accession Number: 20191018–5098.

Comments Due: 5 p.m. ET 10/30/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 21, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–23422 Filed 10–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20–10–000.

Applicants: Cardinal Point LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Cardinal Point LLC.

Filed Date: 10/17/19.

Accession Number: 20191017–5164.

Comments Due: 5 p.m. ET 11/7/19.

Docket Numbers: EG20–11–000.

Applicants: Lincoln Clean Energy, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of 2W Permian Solar, LLC.

Filed Date: 10/18/19.

Accession Number: 20191018–5094.

Comments Due: 5 p.m. ET 11/8/19.

Docket Numbers: EG20–12–000.

Applicants: GA Solar 4, LLC.

Description: GA Solar 4, LLC Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 10/18/19.

Accession Number: 20191018–5163.

Comments Due: 5 p.m. ET 11/8/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–125–002.

Applicants: Duke Energy Florida, LLC.

Description: Compliance filing: DEF–US EcoGen Polk LGIA Settlement (ER19–125 & EL19–23) Compliance Filing to be effective 10/4/2019.

Filed Date: 10/18/19.

Accession Number: 20191018–5183.

Comments Due: 5 p.m. ET 11/8/19.

Docket Numbers: ER20–135–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3246R2 Tenaska Power and Montana-Dakota Utilities Att AO to be effective 10/1/2019.

Filed Date: 10/18/19.

Accession Number: 20191018–5053.

Comments Due: 5 p.m. ET 11/8/19.

Docket Numbers: ER20–136–000.

Applicants: Reading Wind Energy, LLC.

Description: Baseline eTariff Filing: Application for MBR Authority and Initial Baseline Tariff Filing to be effective 12/1/2019.

Filed Date: 10/18/19.

Accession Number: 20191018–5078.

Comments Due: 5 p.m. ET 11/8/19.

Docket Numbers: ER20–137–000.

Applicants: New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: NYISO 205 filing of tariff revisions to Attachment L of the OATT to be effective 12/18/2019.

Filed Date: 10/18/19.

Accession Number: 20191018–5082.

Comments Due: 5 p.m. ET 11/8/19.

Docket Numbers: ER20–138–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: Procurement Agreement for CCSF Potrero Interconnection Project (SA 284) to be effective 10/21/2019.

Filed Date: 10/18/19.

Accession Number: 20191018–5099.

Comments Due: 5 p.m. ET 11/8/19.

Docket Numbers: ER20–139–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of WMPA SA No. 4919; Queue No. AC2–073 to be effective 11/11/2019.

Filed Date: 10/18/19.

Accession Number: 20191018–5101.

Comments Due: 5 p.m. ET 11/8/19.

Docket Numbers: ER20–140–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: § 205(d) Rate Filing: ISO–NE and NEPOOL; Price Responsive Demand Clean-Up Changes to be effective 12/18/2019.

Filed Date: 10/18/19.

Accession Number: 20191018–5129.

Comments Due: 5 p.m. ET 11/8/19.

Docket Numbers: ER20–141–000.

Applicants: GridLiance West LLC.

Description: Transmission Revenue Balancing Account Adjustment 2020 Annual Update of GridLiance West LLC.

Filed Date: 10/18/19.

Accession Number: 20191018–5142.

Comments Due: 5 p.m. ET 11/8/19.

Docket Numbers: ER20–142–000.

Applicants: ISO New England Inc., Public Service Company of New Hampshire.

Description: Notice of Cancellation of Large Generator Interconnection Agreement (No. LGIA–ISONE/NU–10–03) of ISO New England Inc., et al.

Filed Date: 10/18/19.

Accession Number: 20191018–5150.

Comments Due: 5 p.m. ET 11/8/19.

Docket Numbers: ER20–143–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Letter Agreement with MWD for Pilot Relay Project to be effective 12/18/2019.

Filed Date: 10/18/19.

Accession Number: 20191018–5177.

Comments Due: 5 p.m. ET 11/8/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 18, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–23487 Filed 10–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2880–015]

Cherokee Falls Hydroelectric Project, LLC; Notice of Application Accepted for Filing and Soliciting 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. *Type of Application:* New Major License.

b. *Project No.:* 2880–015.

c. *Date filed:* July 31, 2019.

d. *Applicant:* Cherokee Falls Hydroelectric Project, LLC.

e. *Name of Project:* Cherokee Falls Hydroelectric Project (Cherokee Falls Project).

f. *Location:* The existing project is located on the Broad River, in Cherokee County, South Carolina. The project does not affect federal land.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant:* Contact Beth E. Harris, Southwest Regional Engineer, Enel Green Power North America, Inc., 11 Anderson Street, Piedmont, SC 29673; Telephone (864) 846–0042 ext. 100; *Beth.Harris@Enel.com.*

i. *FERC Contact:* Michael Spencer at (202) 502–6093, or at *michael.spencer@ferc.gov.*

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2880–015.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing, but is not ready for environmental analysis at this time.

l. *Project Description:* The Cherokee Falls Project consists of: (1) A 1,819-foot-long granite masonry dam with a 1,701-foot-long spillway and 4-foot-high flashboards; (2) a reservoir with a surface area of 83 acres and a storage capacity of 140 acre-feet; (3) a trash rack intake; (4) a 130-foot-long, 40-foot-wide powerhouse containing one generating unit with a capacity of 4,140 kilowatts and an annual generation of 9,354.9 megawatt-hours; (5) a 150-foot-long tailrace; (6) 93-foot-long generator leads to three 500-kilovolt transformers and (7) a 200-foot-long transmission line to a point of interconnection with the grid.

The project is operated in run-of-river mode with a continuous, year-round minimum flow of 65 cubic feet per second (cfs) in the bypassed reach. Project operation starts when inflows exceed 665 cfs, the sum of the minimum hydraulic capacity of the turbine (600 cfs) and the minimum flow. All flows greater than 3,165 cfs, which is the sum of the maximum hydraulic capacity of the turbine (3,100 cfs) and the minimum flow, are passed over the spillway.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the Cherokee County Public Library, 300 East Rutledge Avenue, Gaffney, South Carolina 29340.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title PROTEST, or MOTION TO INTERVENE; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: October 18, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–23492 Filed 10–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL19–100–000]

PJM Interconnection, L.L.C.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On October 17, 2019, the Commission issued an order in Docket No. EL19–100–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2018), instituting an investigation into whether PJM Interconnection, L.L.C.'s minimum run-time rules and procedures are just and reasonable. *PJM Interconnection, LLC,* 169 FERC 61,049 (2019).

The refund effective date in Docket Nos. EL19–100–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL19–100–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2019), within 21 days of the date of issuance of the order.

Dated: October 18, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–23493 Filed 10–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5038–002]

Boise Project Board of Control; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, Protests, Recommendations, and Terms and Conditions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of Conduit Exemption.

b. *Project No.:* 5038–002.

c. *Date filed:* October 17 and 18, 2019.

d. *Applicant:* Boise Project Board of Control.

e. *Name of Project:* Main Canal No. 6 Hydroelectric Project.

f. *Location:* The project is located on the applicant's irrigation canal system, near the town of Kuna, in Ada County, Idaho. The project, in part, occupies federal lands administered by the U.S. Bureau of Reclamation.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Thomas Ritthaler, Assistant Project Manager, Boise Project Board of Control, 2465 Overland Road, Boise, ID 83705, phone (208) 334–1141.

i. *FERC Contact:* Christopher Chaney, (202) 502–6778 or *christopher.chaney@ferc.gov.*

j. *Deadline for filing responsive documents:* Due to the small size of the proposed project, as well as the resource agency consultation letters filed with the application, the 60-day timeframe specified in 18 CFR 4.34(b) for filing all comments, motions to intervene, protests, recommendations, terms and conditions, and prescriptions is shortened to 30 days from the issuance date of this notice. All reply comments must be filed with the Commission within 45 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–5038–002.

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 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, it must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed amendment consists of the following changes to the previously authorized, but unconstructed project: (1) Decrease the number of turbines from two Francis turbines connected to a single generator to one Kaplan turbine connected to a single generator; (2) reduce the size of the powerhouse from approximately 2,340 ft^2 to 832 ft^2 and shift its orientation; (3) realign the tailrace; and (4) reduce the length of the diversion structure from 61 ft. to 48 ft. and change the bypass mechanism from three trip gates to two automatic siphons. The proposal would not change the installed or hydraulic capacities.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number, P–5038, in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified deadline date for the particular application.

n. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title COMMENTS, PROTEST, MOTION TO INTERVENE, REPLY COMMENTS, RECOMMENDATIONS, TERMS AND CONDITIONS, or PRESCRIPTIONS; (2) set forth in the heading, the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: October 22, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–23520 Filed 10–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Institution of Section 206 Proceeding and Refund Effective Date

	Docket Nos.
ISO New England Inc	EL19–90–000
PJM Interconnection, L.L.C	EL19–91–000
Southwest Power Pool, Inc	EL19–92–000

On October 17, 2019, the Commission issued an order in Docket Nos. EL19–

90–000, EL19–91–000, and EL19–92–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2018), instituting proceedings to consider whether the above-captioned entities may be implementing exemptions for immediate need reliability projects that the Commission permitted to Order No. 1000's [1] requirement to eliminate provisions in Commission-jurisdictional tariffs and agreements that establish a federal right of first refusal for an incumbent transmission developer with respect to transmission facilities selected in a regional transmission plan for purposes of cost allocation in a manner that is inconsistent than what the Commission directed, and therefore may be unjust and unreasonable, unduly preferential and discriminatory. *ISO New England Inc., et al.,* 169 FERC 61,054 (2019).

The refund effective date in Docket Nos. EL19–90–000, EL19–91–000, and EL19–92–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket Nos. EL19–90–000, EL19–91–000, and EL19–92–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2019), within 21 days of the date of issuance of the order.

Dated: October 18, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–23489 Filed 10–25–19; 8:45 am]

BILLING CODE 6717–01–P

[1] *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities,* Order No. 1000, 136 FERC 61,051 (2011), *order on reh'g,* Order No. 1000–A, 139 FERC 61,132, *order on reh'g and clarification,* Order No. 1000–B, 141 FERC 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth.* v. *FERC,* 762 F.3d 41 (D.C. Cir. 2014).

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10001–15–OA]

Notification of a Public Meeting and Two Public Teleconferences of the Science Advisory Board Computable General Equilibrium Model Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of a public meeting and two teleconferences.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting and two public teleconferences of the SAB Computable General Equilibrium (CGE) Model Review Panel to discuss its review of a CGE model from the EPA's National Center for Environmental Economics.

DATES: The public meeting will be held on November 22, 2019, from 8:30 a.m. to 5:30 p.m. (Eastern Time). The public teleconferences will be held on December 12, 2019, from 12:00 p.m.–3:00 p.m. (Eastern Time) and January 31, 2020, from 10:00 a.m.–1:00 p.m.

Location: The public meeting will be held at the Residence Inn, 2850 South Potomac Avenue, Arlington, VA 22202. The public teleconferences will be held by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding the public teleconference may contact Dr. Holly Stallworth, Designated Federal Officer (DFO), SAB Staff Office, by telephone at (202) 564–2073 or email at *stallworth.holly@epa.gov.* The SAB mailing address is U.S. EPA Science Advisory Board (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460. General information about the SAB, including information concerning the SAB teleconference announced in this notice, can be found at the SAB web page at *http://epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDAA) codified at 42 U.S.C. 4365, to provide independent scientific and technical peer review, advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the SAB CGE Model Review Panel will hold a public meeting and two public teleconferences to discuss its review of a CGE model from EPA's National Center for Environmental Economics. The Panel will provide advice to the Administrator through the chartered SAB. Background information on the SAB CGE Model Review Panel can be found at *https://yosemite.epa.gov/sab/sabproduct.nsf/02ad90b136fc21ef85256eba00436459/18a2abac2e4b5ec9852583bc004ce70a!OpenDocument.* Another **Federal Register** Notice (84 FR 38252–38253) announced a public orientation teleconference held on August 22, 2019.

The public meeting on November 22, 2019, will allow the CGE Model Review Panel to discuss its responses to charge questions from the National Center for Environmental Economics. Preliminary draft responses to charge questions from individual panelists will be posted at the meeting web page prior to the meeting. To find the web page, go to *http://epa.gov/sab,* click on the calendar then click on the meeting date. The public teleconference on December 12, 2019, will allow the CGE Model Review Panel to continue its discussions of responses to NCEE's charge questions and the public teleconference on January 31, 2020 will allow the CGE Model Review Panel to resolve any final issues regarding the language in its draft report.

All draft reports developed by SAB panels, committees or workgroups are reviewed and approved by the Chartered SAB through a quality review process before being finalized and transmitted to the EPA Administrator.

Availability of the meeting and teleconference materials: For each meeting or teleconference, the web page may be found by going to *http://epa.gov/sab,* clicking on ''Upcoming and Recent Meeting'' then clicking on the calendar then clicking on the meeting date. An agenda will be posted prior to each meeting as well as any draft individual comments or draft panel report. All materials from EPA, including presentations and the charge questions, may be found on these web pages as well. The CGE model source code and documentation as well as memos on model versioning and potential near-term model improvements will be posted. While the source code and documentation will be available to the public, some of the data to run the model is proprietary and would have to be purchased from The IMPLAN Group LLC (*implan.com*). Instructions and source code to build the model's dataset from the IMPLAN data are posted. For questions concerning EPA's review materials on its CGE model, please contact Dr. Ann Wolverton, EPA National Center for Environmental Economics at *wolverton.ann@epa.gov* or 202–566–2278.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to the EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to the EPA. Members of the public can submit relevant comments on the topic of this advisory activity, including the charge to the panel and the EPA review documents, and/or the group conducting the activity, for the SAB to consider during the advisory process. Input from the public to the SAB will have the most impact if it consists of comments that provide specific scientific or technical information or analysis for the SAB panel to consider or if it relates to the clarity or accuracy of the technical information.

Oral Statements: In general, individuals or groups requesting an oral presentation at the will be limited to five minutes per speaker. Interested parties should contact Dr. Holly Stallworth, DFO, in writing (preferably via email), at the contact information noted above by November 15, 2019, to be placed on the list of public speakers for the public meeting. For the public teleconferences, deadlines for contacting Dr. Stallworth to be placed on the list of speakers are December 5, 2019, and January 25, 2020, respectively.

Written Statements: Written statements will be accepted throughout the advisory process; however, for timely consideration by Panel members, statements should be supplied to the DFO (preferably via email) at the contact information noted above by November 15, 2019, for consideration at the public meeting on November 22, 2019. For the public teleconferences, the deadlines for submitting written comments are December 5, 2019, and January 25, 2020, respectively. It is the SAB Staff Office general policy to post written comments on the web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its website. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB website. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: To request accommodation of a disability, please contact Dr. Stallworth at 202–564–2073 or *stallworth.holly@epa.gov.* To request accommodation of a disability please contact Dr. Stallworth, preferably at least ten days prior to the teleconference, to give the EPA as much time as possible to process your request.

Dated: October 7, 2019.

Khanna Johnston,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2019–23524 Filed 10–25–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2018–0014; FRL–9999–39]

Cancellation Order for Certain Pesticide Registrations and Amendments To Terminate Uses

Correction

In notice document 2019–21122 beginning on page 51561 in the issue of Monday, September 30, 2019, make the following correction:

On page 51564, in the second column, in the fourth paragraph, in the fourth line ''September 30, 2019'' should read ''September 30, 2020''.

[FR Doc. C1–2019–21122 Filed 10–25–19; 8:45 am]

BILLING CODE 1301–00–D

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10001–53–OLEM]

Thirty-Sixth Update of the Federal Agency Hazardous Waste Compliance Docket

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Since 1988, the Environmental Protection Agency (EPA) has maintained a Federal Agency Hazardous Waste Compliance Docket (''Docket'') under section 120(c) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Section 120(c) requires EPA to establish a Docket that contains certain information reported to EPA by Federal facilities that manage hazardous waste or from which a reportable quantity of hazardous substances has been released. As explained further below, the Docket is used to identify Federal facilities that should be evaluated to determine if they pose a threat to public health or welfare and the environment and to provide a mechanism to make this information available to the public. This notice identifies the Federal facilities not previously listed on the Docket and also identifies Federal facilities reported to EPA since the last update on April 29, 2019. In addition to the list of additions to the Docket, this notice includes a section with revisions of the previous Docket list and a section of Federal facilities that are to be deleted from the Docket. Thus, the revisions in this update include zero additions, three deletions, and zero corrections to the Docket since the previous update. At the time of publication of this notice, the new total number of Federal facilities listed on the Docket is 2,372.

DATES: This list is current as of October 10, 2019.

FOR FURTHER INFORMATION CONTACT: Electronic versions of the Docket and more information on its implementation can be obtained at *http://www.epa.gov/fedfac/previous-federal-agency-hazardous-waste-compliance-docket-updates* by clicking on the link for *Cleanups at Federal Facilities* or by contacting Benjamin Simes (*Simes.Benjamin@epa.gov*), Federal Agency Hazardous Waste Compliance Docket Coordinator, Federal Facilities Restoration and Reuse Office (Mail Code 5106R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460. Additional information on the Docket and a complete list of Docket sites can be obtained at: *https://www.epa.gov/fedfac/fedfacts.*

SUPPLEMENTARY INFORMATION:

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1.0 Introduction
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4.0 Process for Compiling the Updated Docket
5.0 Facilities Not Included
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7.0 Information Contained on Docket Listing

1.0 Introduction

Section 120(c) of CERCLA, 42 U.S.C. 9620(c), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), requires EPA to establish the Federal Agency Hazardous Waste Compliance Docket. The Docket contains information on Federal facilities that manage hazardous waste and such information is submitted by Federal agencies to EPA under sections 3005, 3010, and 3016 of the Resource

Conservation and Recovery Act (RCRA), 42 U.S.C. 6925, 6930, and 6937. Additionally, the Docket contains information on Federal facilities with a reportable quantity of hazardous substances that has been released and such information is submitted by Federal agencies to EPA under Section 103 of CERCLA, 42 U.S.C. 9603. Specifically, RCRA section 3005 establishes a permitting system for certain hazardous waste treatment, storage, and disposal (TSD) facilities; RCRA section 3010 requires waste generators, transporters and TSD facilities to notify EPA of their hazardous waste activities; and RCRA section 3016 requires Federal agencies to submit biennially to EPA an inventory of their Federal hazardous waste facilities. CERCLA section 103(a) requires the owner or operator of a vessel or onshore or offshore facility to notify the National Response Center (NRC) of any spill or other release of a hazardous substance that equals or exceeds a reportable quantity (RQ), as defined by CERCLA section 101. Additionally, CERCLA section 103(c) requires facilities that have ''stored, treated, or disposed of'' hazardous wastes and where there is ''known, suspected, or likely releases'' of hazardous substances to report their activities to EPA.

CERCLA section 120(d) requires EPA to take steps to assure that a Preliminary Assessment (PA) be completed for those sites identified in the Docket and that the evaluation and listing of sites with a PA be completed within a reasonable time frame. The PA is designed to provide information for EPA to consider when evaluating the site for potential response action or inclusion on the National Priorities List (NPL).

The Docket serves three major purposes: (1) To identify all Federal facilities that must be evaluated to determine whether they pose a threat to human health and the environment sufficient to warrant inclusion on the National Priorities List (NPL); (2) to compile and maintain the information submitted to EPA on such facilities under the provisions listed in section 120(c) of CERCLA; and (3) to provide a mechanism to make the information available to the public. Previous Docket updates are available at *https://www.epa.gov/fedfac/previous-federal-agency-hazardous-waste-compliance-docket-updates.*

This notice provides some background information on the Docket. Additional information on the Docket requirements and implementation are found in the Docket Reference Manual, Federal Agency Hazardous Waste Compliance Docket found at *http://www.epa.gov/fedfac/docket-reference-manual-federal-agency-hazardous-waste-compliance-docket-interim-final* or obtained by calling the Regional Docket Coordinators listed below. This notice also provides changes to the list of sites included on the Docket in three areas: (1) Additions, (2) Deletions, and (3) Corrections. Specifically, additions are newly identified Federal facilities that have been reported to EPA since the last update and now are included on the Docket; the deletions section lists Federal facilities that EPA is deleting from the Docket.[1] The information submitted to EPA on each Federal facility is maintained in the Docket repository located in the EPA Regional office of the Region in which the Federal facility is located; for a description of the information required under those provisions, *see* 53 FR 4280 (February 12, 1988). Each repository contains the documents submitted to EPA under the reporting provisions and correspondence relevant to the reporting provisions for each Federal facility.

In prior updates, information was also provided regarding No Further Remedial Action Planned (NFRAP) status changes. However, information on NFRAP and NPL status is no longer being provided separately in the Docket update as it is now available at: *http://www.epa.gov/fedfac/fedfacts* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

2.0 Regional Docket Coordinators

Contact the following Docket Coordinators for information on Regional Docket repositories:

- *US EPA Region 1.* Martha Bosworth (HBS), 5 Post Office Square, Suite 100, Mail Code: OSRR07–2, Boston MA 02109–3912, (617) 918–1407.
- *US EPA Region 2.* Cathy Moyik (ERRD), 290 Broadway, New York, NY 10007–1866, (212) 637– 4339.
- *US EPA Region 3.* Joseph Vitello (3HS12), 1650 Arch Street, Philadelphia, PA 19107, (215) 814–3354.
- *US EPA Region 4.* Leigh Lattimore (4SF–SRSEB), 61 Forsyth St. SW, Atlanta, GA 30303, 404–562–8768.
- *US EPA Region 5.* David Brauner (SR–6J), 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886–1526.
- *US EPA Region 6.* Philip Ofosu (6SF–RA), 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–3178.
- *US EPA Region 7.* Todd H Davis (SUPRERSP), 11201 Renner Blvd., Lenexa, KS 66219, (913) 551–7749.
- *US EPA Region 8.* Ryan Dunham (EPR–F), 1595 Wynkoop Street, Denver, CO 80202, (303) 312–6627.
- *US EPA Region 9.* Leslie Ramirez (SFD–6–1), 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3978.
- *US EPA Region 10.* Ken Marcy, Oregon Operations Office, 805 SW Broadway, Suite 500, Portland, OR 97205, (503) 326–3269.

3.0 Revisions of the Previous Docket

This section includes a discussion of the additions, deletions, and corrections, to the list of Docket facilities since the previous Docket update.

3.1 Additions

These Federal facilities are being added primarily because of new information obtained by EPA (for example, recent reporting of a facility pursuant to RCRA sections 3005, 3010, or 3016 or CERCLA section 103). CERCLA section 120, as amended by the Defense Authorization Act of 1997, specifies that EPA take steps to assure that a Preliminary Assessment (PA) be completed within a reasonable time frame for those Federal facilities that are included on the Docket. Among other things, the PA is designed to provide information for EPA to consider when evaluating the site for potential response action or listing on the NPL. This notice includes zero additions.

3.2 Deletions

There are no statutory or regulatory provisions that address deletion of a facility from the Docket. However, if a facility is incorrectly included on the Docket, it may be deleted from the Docket. The criteria EPA uses in deleting sites from the Docket include: A facility for which there was an incorrect report submitted for hazardous waste activity under RCRA (*e.g.,* 40 CFR 262.44); a facility that was not Federally-owned or operated at the time of the listing; a facility included more than once (*i.e.,* redundant listings); or when multiple facilities are combined under one listing. (*See* Docket Codes (*Reasons for Deletion of Facilities*) for a more refined list of the criteria EPA uses for deleting sites from the Docket. Facilities being deleted no longer will be subject to the requirements of CERCLA section 120(d). This notice includes three deletions.

3.3 Corrections

Changes necessary to correct the previous Docket are identified by both

[1] See Section 3.2 for the criteria for being deleted from the Docket.

EPA and Federal agencies. The corrections section may include changes in addresses or spelling, and corrections of the recorded name and ownership of a Federal facility. In addition, changes in the names of Federal facilities may be made to establish consistency in the Docket or between the Superfund Enterprise Management System (SEMS) and the Docket. For the Federal facility for which a correction is entered, the original entry is as it appeared in previous Docket updates. The corrected update is shown directly below, for easy comparison. This notice includes zero corrections.

4.0 Process for Compiling the Updated Docket

In compiling the newly reported Federal facilities for the update being published in this notice, EPA extracted the names, addresses, and identification numbers of facilities from four EPA databases—the WebEOC, the Biennial Inventory of Federal Agency Hazardous Waste Activities, the Resource Conservation and Recovery Act Information System (RCRAInfo), and SEMS—that contain information about Federal facilities submitted under the four provisions listed in CERCLA section 120(c).

EPA assures the quality of the information on the Docket by conducting extensive evaluation of the current Docket list and contacts the other Federal Agency (OFA) with the information obtained from the databases identified above to determine which Federal facilities were, in fact, newly reported and qualified for inclusion on the update. EPA is also striving to correct errors for Federal facilities that were previously reported. For example, state-owned or privately-owned facilities that are not operated by the Federal government may have been included. Such problems are sometimes caused by procedures historically used to report and track Federal facilities data. Representatives of Federal agencies are asked to contact the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice if revisions of this update information are necessary.

5.0 Facilities Not Included

Certain categories of facilities may not be included on the Docket, such as: (1) Federal facilities formerly owned by a Federal agency that at the time of consideration was not Federally-owned or operated; (2) Federal facilities that are small quantity generators (SQGs) that have not, more than once per calendar year, generated more than 1,000 kg of hazardous waste in any single month; (3) Federal facilities that are very small quantity generators (VSQGs) that have never generated more than 100 kg of hazardous waste in any month; (4) Federal facilities that are solely hazardous waste transportation facilities, as reported under RCRA section 3010; and (5) Federal facilities that have mixed mine or mill site ownership.

An EPA policy issued in June 2003 provided guidance for a site-by-site evaluation as to whether ''mixed ownership'' mine or mill sites, typically created as a result of activities conducted pursuant to the General Mining Law of 1872 and never reported under section 103(a) of CERCLA, should be included on the Docket. For purposes of that policy, mixed ownership mine or mill sites are those located partially on private land and partially on public land. This policy is found at *http://www.epa.gov/fedfac/policy-listing-mixed-ownership-mine-or-mill-sites-created-result-general-mining-law-1872.* The policy of not including these facilities may change; facilities now omitted may be added at some point if EPA determines that they should be included.

6.0 Facility NPL Status Reporting, Including NFRAP Status

EPA tracks the NPL status of Federal facilities listed on the Docket. An updated list of the NPL status of all Docket facilities, as well as their NFRAP status, is available at *http://www.epa.gov/fedfac/fedfacts* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. In prior updates, information regarding NFRAP status changes was provided separately.

7.0 Information Contained on Docket Listing

The information is provided in three tables. The first table is a list of additional Federal facilities that are being added to the Docket. The second table is a list of Federal facilities that are being deleted from the Docket. The third table is for corrections.

The Federal facilities listed in each table are organized by the date reported. Under each heading is listed the name and address of the facility, the Federal agency responsible for the facility, the statutory provision(s) under which the facility was reported to EPA, and a code.[2]

The statutory provisions under which a Federal facility is reported are listed in a column titled ''Reporting Mechanism.'' Applicable mechanisms are listed for each Federal facility: For example, Sections 3005, 3010, 3016, 103(c), or Other. ''Other'' has been added as a reporting mechanism to indicate those Federal facilities that otherwise have been identified to have releases or threat of releases of hazardous substances. The National Contingency Plan 40 CFR 300.405 addresses discovery or notification, outlines what constitutes discovery of a hazardous substance release, and states that a release may be discovered in several ways, including: (1) A report submitted in accordance with section 103(a) of CERCLA, *i.e.,* reportable quantities codified at 40 CFR 302; (2) a report submitted to EPA in accordance with section 103(c) of CERCLA; (3) investigation by government authorities conducted in accordance with section 104(e) of CERCLA or other statutory authority; (4) notification of a release by a Federal or state permit holder when required by its permit; (5) inventory or survey efforts or random or incidental observation reported by government agencies or the public; (6) submission of a citizen petition to EPA or the appropriate Federal facility requesting a preliminary assessment, in accordance with section 105(d) of CERCLA; (7) a report submitted in accordance with section 311(b)(5) of the Clean Water Act; and (8) other sources. As a policy matter, EPA generally believes it is appropriate for Federal facilities identified through the CERCLA discovery and notification process to be included on the Docket.

The complete list of Federal facilities that now make up the Docket and the NPL and NFRAP status are available to interested parties and can be obtained at *http://www.epa.gov/fedfac/fedfacts* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. As of the date of this notice, the total number of Federal facilities that appear on the Docket is 2,372.

Dated: October 17, 2019.

Gregory Gervais,

Acting Director, Federal Facilities Restoration and Reuse Office, Office of Land and Emergency Management.

7.1 Docket Codes/Reasons for Deletion of Facilities

• *Code 1.* Small-Quantity Generator and Very Small Quantity Generator. Show citation box.

[2] Each Federal facility listed in the update has been assigned a code that indicates a specific reason for the addition or deletion. The code precedes this list.

• *Code 2.* Never Federally Owned and/or Operated.
• *Code 3.* Formerly Federally Owned and/or Operated but not at time of listing.
• *Code 4.* No Hazardous Waste Generated.
• *Code 5.* (This code is no longer used.)
• *Code 6.* Redundant Listing/Site on Facility.
• *Code 7.* Combining Sites Into One Facility/Entries Combined.
• *Code 8.* Does Not Fit Facility Definition.

7.2 Docket Codes/Reasons for Addition of Facilities

• *Code 15.* Small-Quantity Generator with either a RCRA 3016 or CERCLA 103 Reporting Mechanism.
• *Code 16.* One Entry Being Split Into Two (or more)/Federal Agency Responsibility Being Split.
• *Code 16A.* NPL site that is part of a Facility already listed on the Docket.
• *Code 17.* New Information Obtained Showing That Facility Should Be Included.
• *Code 18.* Facility Was a Site on a Facility That Was Disbanded; Now a Separate Facility.
• *Code 19.* Sites Were Combined Into One Facility.
• *Code 19A.* New Currently Federally Owned and/or Operated Facility Site.

7.3 Docket Codes/Types of Corrections of Information About Facilities

• *Code 20.* Reporting Provisions Change.
• *Code 20A.* Typo Correction/Name Change/Address Change.
• *Code 21.* Changing Responsible Federal Agency. (If applicable, new responsible Federal agency submits proof of previously performed PA, which is subject to approval by EPA.)
• *Code 22.* Changing Responsible Federal Agency and Facility Name. (If applicable, new responsible Federal Agency submits proof of previously performed PA, which is subject to approval by EPA.)
• *Code 24.* Reporting Mechanism Determined To Be Not Applicable After Review of Regional Files.

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #36—ADDITIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code	Date

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #36—DELETIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code	Date
BLM-ORYX ENERGY COMPANY—FELLOWS.	BAND GOVT LEASE KERN COUNTY.	FELLOWS	CA	93224	INTERIOR	RCRA 3010	2	2/5/1993
BLM-ORYX ENERGY COMPANY—MCKITTRICK.	CAL FEDERAL "A" LEASE KEM CO.	MCKITTRICK	CA	93251	INTERIOR	RCRA 3010	2	2/5/1993
AIR NATIONAL GUARD—NEXT TO BUILDING 100.	200 ROAD SECTOR CENTRAL, JOSE A TONY SANTANA AVE.	CAROLINA	PR	00979–1514	AIR FORCE	CERCLA 103	2	10/24/2016

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #36—CORRECTIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code	Date

[FR Doc. 2019–23523 Filed 10–25–19; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Friday, October 25, 2019

October 18, 2019.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Friday, October 25, 2019, which is scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street SW, Washington, DC.

Item No.	Bureau	Subject
1	Wireline Competition	*Title:* Connect America Fund (WC Docket No. 10–90). *Summary:* The Commission will consider an Order on Reconsideration that would ensure that carriers receiving high-cost universal service support to deploy rural broadband are accountable to consumers, taxpayers, and the Commission, while providing flexibility for smaller carriers, by making targeted modifications to the testing procedures that carriers must use to show that their networks perform at the Commission's speed and latency standards.

Item No.	Bureau	Subject
2	Wireline Competition	*Title:* BellSouth's Petition for Declaratory Ruling Regarding the Commission's Definition of Interconnected VoIP in 47 C.F.R. 9.3 and the Prohibition on State Imposition of 911 Charges on VoIP Customers in 47 U.S.C. 615a–1(f)(1) (WC Docket No. 19–44); Petition for Declaratory Ruling in Response to Primary Jurisdiction Referral, Autauga County Emergency Management Communication District et al. v. BellSouth Telecommunications, LLC, No. 2:15–cx–00765–SGC (N.D. Ala.). *Summary:* The Commission will consider a Declaratory Ruling that clarifies section 6(f)(1) of the New and Emerging Technologies 911 Improvement Act of 2008 and ensures regulatory parity in 911 fees between VoIP services and traditional telecommunications services.
3	Media	*Title:* Use of Common Antenna Site—Sections 73.239 and 73.635 (MB Docket No. 19–282); Modernization of Media Regulation Initiative (MB Docket No. 17–105). *Summary:* The Commission will consider a Notice of Proposed Rulemaking that seeks comment on whether the common antenna siting rules for FM and TV broadcaster applicants and licensees are necessary given the current broadcasting marketplace.
4	Media	*Title:* Petition for Determination of Effective Competition in 32 Massachusetts Communities and Kauai, HI (HI0011) (MB Docket No. 18–283). *Summary:* The Commission will consider a Memorandum Opinion and Order that grants the petition of Charter and finds that Charter faces effective competition in providing cables services in franchise areas in Massachusetts and Hawaii.
5	Wireline Competition	*Title:* Reform of Certain Part 61 Tariff Rules (WC Docket No. 18–276); Petitions for Limited Waiver of Rule 61.74(a) (WC Docket No. 17–308). *Summary:* The Commission will consider a Report and Order that would amend its tariffing rules to better align them with the reality of easy electronic access to tariff filings.
6	Public Safety & Homeland Security	*Title:* Improving Public Safety Communications in the 800 MHz Band (WT Docket No. 02–55). *Summary:* The Commission will consider an Order and Sixth Further Notice of Proposed Rulemaking that would streamline rules and procedures to expedite the successful completion of the 800 MHz band reconfiguration initiative, lower program costs and administrative burdens, and continue to alleviate interference to public safety licensees.
7	Office of Managing Director	*Title:* Personnel Action #19–34. *Summary:* The Commission will consider a personnel action.

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at *www.fcc.gov/live.*

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–23497 Filed 10–25–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0989]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before December 27, 2019. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0989.

Title: Sections 63.01, 63.03, 63.04, Procedures for Applicants Requiring Section 214 Authorization for Domestic Interstate Transmission Lines Acquired Through Corporate Control.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 92 respondents; 92 responses.

Estimated Time per Response: 1.5–10 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Mandatory. Statutory authority for this collection is contained in 47 U.S.C. 152, 154(i)–(j), 201, 214, and 303(r).

Total Annual Burden: 861 hours.

Total Annual Cost: $101,575.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality. The FCC is not requiring applicants to submit confidential information to the Commission. If applicants want to request confidential treatment of the documents they submit to Commission, they may do so under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: A Report and Order, FCC 02–78, adopted and released in March 2002 (Order), set forth the procedures for common carriers requiring authorization under section 214 of the Communications Act of 1934, as amended, to acquire domestic interstate transmission lines through a transfer of control. Under section 214 of the Act, carriers must obtain FCC approval before constructing, acquiring, or operating an interstate transmission line. Acquisitions involving interstate common carriers require affirmative action by the Commission before the acquisition can occur. This information collection contains filing procedures for domestic transfer of control applications under sections 63.03 and 63.04. The FCC filing fee amount for section 214 applications is currently $1,195 per application, which reflects an increase of the previous fee of $1,155 per application. (a) Sections 63.03 and 63.04 require domestic section 214 applications involving domestic transfers of control, at a minimum, should specify: (1) The name, address and telephone number of each applicant; (2) the government, state, or territory under the laws of which each corporate or partnership applicant is organized; (3) the name, title, post office address, and telephone number of the officer or contact point, such as legal counsel, to whom correspondence concerning the application is to be addressed; (4) the name, address, citizenship, and principal business of any person or entity that directly or indirectly owns at least ten percent of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest one percent); (5) certification pursuant to 47 CFR 1.2001 that no party to the application is subject to a denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988; (6) a description of the transaction; (7) a description of the geographic areas in which the transferor and transferee (and their affiliates) offer domestic telecommunications services, and what services are provided in each area; (8) a statement as to how the application fits into one or more of the presumptive streamlined categories in section 63.03 or why it is otherwise appropriate for streamlined treatment; (9) identification of all other Commission applications related to the same transaction; (10) a statement of whether the applicants are requesting special consideration because either party to the transaction is facing imminent business failure; (11) identification of any separately filed waiver request being sought in conjunction with the transaction; and (12) a statement showing how grant of the application will serve the public interest, convenience, and necessity, including any additional information that may be necessary to show the effect of the proposed transaction on competition in domestic markets. Where an applicant wishes to file a joint international section 214 transfer of control application and domestic section 214 transfer of control application, the applicant must submit information that satisfies the requirements of 47 CFR 63.18. In the attachment to the international application, the applicant must submit information described in 47 CFR 63.04(a)(6). When the Commission, acting through the Wireline Competition Bureau, determines that applicants have submitted a complete application qualifying for streamlined treatment, it shall issue a public notice commencing a 30-day review period to consider whether the transaction serves the public interest, convenience and necessity. Parties will have 14 days to file any comments on the proposed transaction, and applicants will be given 7 days to respond. (b) Applicants are not required to file post-consummation notices of pro forma transactions, except that a post transaction notice must be filed with the Commission within 30 days of a pro forma transfer to a bankruptcy trustee or a debtor-in-possession. The notification can be in the form of a letter (in duplicate to the Secretary, Federal Communications Commission). The letter or other form of notification must also contain the information listed in sections (a)(1). A single letter may be filed for more than one such transfer of control. The information will be used by the Commission to ensure that applicants comply with the requirements of 47 U.S.C. 214.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–23498 Filed 10–25–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2019–0094]

Recommendations for Hepatitis C Screening Among Adults—2019; Request for Comment

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice and request for comment.

SUMMARY: The Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services announces the opening of a public docket to obtain public comment on proposed new recommendations for hepatitis C virus (HCV) infection screening for adults, including pregnant women. The new recommendations are intended for U.S. healthcare providers and will include supporting scientific evidence of the effectiveness and

economic value of screening to diagnose current HCV infection among adults and pregnant women in the United States.

DATES: Written comments must be received on or before December 27, 2019.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2019–0094 by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Division of Viral Hepatitis, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop U12–3, Atlanta, GA 30329, Attn: Docket No. CDC–2019–0094.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *http://regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: CDR Sarah Schillie, MD, MPH, MBA, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop U12–3, Atlanta, GA 30329. Email: *DVHpolicy@cdc.gov.* Telephone: (404) 639–8000.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons or organizations are invited to participate by submitting written views, recommendations, and data. In addition, CDC invites comments specifically on the following questions:

• Based on the evidence presented in the full recommendations document (see the Supporting and Related Materials tab in the docket), do you agree with CDC's proposed recommendations for HCV infection screening? If not, please state the reason why and, if available, provide additional evidence for consideration.

• Are CDC's recommendations (see Supporting and Related Materials) clear as written? If not, what changes do you propose to make them clearer?

• If implemented as proposed, do you believe these recommendations would result in a reduction in HCV infections and associated health and financial consequences in the United States? If not, please provide an explanation.

Please note that comments received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. Comments will be posted on *https://www.regulations.gov.* Therefore, do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. If you include your name, contact information, or other information that identifies you in the body of your comments, that information will be on public display. CDC will review all submissions and may choose to redact, or withhold, submissions containing private or proprietary information such as Social Security numbers, medical information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign. CDC will carefully consider all comments submitted in preparation of the final recommendation and may revise as appropriate.

Background and Brief Description

Hepatitis C Virus (HCV) infection is the most commonly reported blood-borne infection in the United States (CDC Viral Hepatitis Surveillance, 2019; Rosenberg et al, 2018), and during 2013–2016 there were an estimated 2.4 million people in the nation (or 1.0% of the U.S. population) living with hepatitis C (Hofmeister et al, 2019). Percutaneous exposure (*e.g.,* injection drug use, blood transfusion) is the most efficient mode of HCV transmission, and injection drug use is the primary risk factor for infection (CDC Viral Hepatitis Surveillance, 2017). National surveillance data reveal an increase in reported cases of acute HCV infection every year from 2009 through 2017, the most recent year for which there is data. The highest rates of acute cases are among persons aged 20–39 years (CDC Viral Hepatitis Surveillance, 2017). As new HCV infections have risen among reproductive aged adults, rates of HCV infection nearly doubled from 2009–2014 among women with live births (Patrick et al, 2017). In 2015, 0.38% of live births were delivered by HCV-infected women (Schillie et al, 2018). Given the current rate and trends of HCV infections, CDC has decided to augment the current guidelines to address the rise in HCV infections among adults in the U.S.

As described in the recommendation document found in the Supporting and Related Materials tab of the docket, these recommendations augment previously published CDC recommendations for the identification of hepatitis C in the United States (Smith et al, 2012; CDC HCV Recommendations, 1998).

Dated: October 23, 2019.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2019–23521 Filed 10–25–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–3427 and CMS–484, 846, 854, 847, 848, 849, 10125, and 10126]

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 December 27, 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–3427 End Stage Renal Disease Application and Survey and Certification Report

CMS–484, 846, 854, 847, 848, 849, 10125, and 10126 Durable Medical Equipment Medicare Administrative

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:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* End Stage Renal Disease Application and Survey and Certification Report; *Use:* Part I of this form is a facility identification and screening measurement used to initiate the certification and recertification of ESRD facilities. Part II is completed by the Medicare/Medicaid State survey agency to determine facility compliance with ESRD conditions for coverage. *Form Number:* CMS–3427 (OMB control number: 0938–0360); *Frequency:* Every three years; *Affected Public:* Private sector (Business or other for-profit and Not-for profit institutions); *Number of Respondents:* 7,493; *Total Annual Responses:* 2,473; *Total Annual Hours:* 824. (For policy questions regarding this collection contact Jennifer Milby at 410–786–8828).

2. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Durable Medical Equipment Medicare Administrative Contractor Certificate of Medical Necessity and Supporting Documentation Requirements; *Use:* The certificates of medical necessity (CMNs) collect information required to help determine the medical necessity of certain items. CMS requires CMNs where there may be a vulnerability to the Medicare program. Each initial claim for these items must have an associated CMN for the beneficiary. Suppliers (those who bill for the items) complete the administrative information (*e.g.,* patient's name and address, items ordered, etc.) on each CMN. The 1994 Amendments to the Social Security Act require that the supplier also provide a narrative description of the items ordered and all related accessories, their charge for each of these items, and the Medicare fee schedule allowance (where applicable). The supplier then sends the CMN to the treating physician or other clinicians (*e.g.,* physician assistant, LPN, etc.) who completes questions pertaining to the beneficiary's medical condition and signs the CMN. The physician or other clinician returns the CMN to the supplier who has the option to maintain a copy and then submits the CMN electronically to CMS, along with a claim for reimbursement. *Form Numbers:* CMS–484, 846, 847, 848, 849, 10125, 10126 (OMB control number: 0938–0679); *Frequency:* Occasionally; *Affected Public:* Individuals or Households; *Number of Respondents:* 1,335,658; *Total Annual Responses:* 1,335,658; *Total Annual Hours:* 267,132. (For policy questions regarding this collection contact Melissa Singer at 410–786–0365.)

Dated: October 23, 2019.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2019–23504 Filed 10–25–19; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10400]

Agency Information Collection Activities: Submission for OMB Review; 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 (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 a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate 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 on the collection(s) of information must be received by the OMB desk officer by *November 27, 2019.*

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR* Email: *OIRA_submission@omb.eop.gov*.

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

1. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

2. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. 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 (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-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 that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Establishment of Exchanges and Qualified Health Plans; *Use:* The Patient Protection and Affordable Care Act (Pub. L. 111–148) and the Health Care and Education Reconciliation Act of 2010 (Pub. L.111–152) (collectively, the Patient Protection and Affordable Care Act (PPACA)) were signed into law in 2010. The PPACA established competitive private health insurance markets, called Marketplaces or Exchanges, which give millions of Americans and small businesses access to qualified health plans (QHPs), including stand-alone dental plans (SADPs)—private health and dental insurance plans that are certified as meeting certain standards.

As directed by the rule Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers (77 FR 18310) (Exchange rule), each Exchange assumed responsibilities related to the certification and offering of QHPs. Under 45 CFR 156.280(e)(5)(ii), each QHP issuer that offers non-excepted abortion services must submit to the State Insurance Commissioner a segregation plan describing how the QHP issuer establishes and maintains separate payment accounts for any QHP covering non-excepted abortion services, and pursuant to § 156.280(e)(5)(iii), each QHP issuer must annually attest to compliance with PPACA section 1303 and applicable regulations. This segregation plan is used to verify that the QHP issuer's financial and other systems fully conform to the segregation requirements required by the PPACA. *Form Number:* CMS–10400 (OMB control number 0938–1156); *Frequency:* Annually; *Affected Public:* Private Sector (business or other for-profits, not-for-profit institutions); *Number of Respondents:* 210; *Number of Responses:* 210; *Total Annual Hours:* 580. For questions regarding this collection contact Michele Oshman at 410–786–4396.

Dated: October 23, 2019.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2019–23506 Filed 10–25–19; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–3708]

InvaGen Pharmaceuticals, Inc.; Proposal To Withdraw Approval of an Abbreviated New Drug Application for Trandolapril Tablets; Opportunity for a Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration's (FDA or Agency) Center for Drug Evaluation and Research (CDER) is proposing to withdraw approval of an abbreviated new drug application (ANDA) for trandolapril tablets and is announcing an opportunity for the holder of the ANDA to request a hearing on this proposal. The basis for the proposal is that the holder of the ANDA has repeatedly failed to submit the required data to support a finding of bioequivalence for this ANDA.

DATES: InvaGen Pharmaceuticals, Inc. may submit a request for a hearing by November 27, 2019. Submit all data, information, and analyses upon which the request for a hearing relies by December 27, 2019. Submit electronic or written comments by December 27, 2019.

ADDRESSES: The request for a hearing may be submitted by InvaGen Pharmaceuticals, Inc. by either of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments to submit your request for a hearing. Comments submitted electronically to *https://www.regulations.gov,* including any attachments to the request for a hearing, will be posted to the docket unchanged.

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.
- Because your request for a hearing will be made public, you are solely responsible for ensuring that your request 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. The request for a hearing must include the Docket No. FDA–2019–N–3708 for ''InvaGen Pharmaceuticals, Inc.; Proposal to Withdraw Approval of an Abbreviated New Drug Application for Trandolapril Tablets; Opportunity for a Hearing.'' The request for a hearing will be placed in the docket and publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

InvaGen Pharmaceuticals, Inc. may submit all data and analyses upon which the request for a hearing relies in the same manner as the request for a hearing except as follows:

- Confidential Submissions—To submit any data and analyses with confidential information that you do not wish to be made publicly available, submit your data and analyses only as a written/paper submission. You should submit two copies total of all data and analyses. 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 any decisions on this matter. 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* or available at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday. Submit both copies to the Dockets Management Staff. Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law.

Comments Submitted by Other Interested Parties: For all comments submitted by other interested parties, submit comments as follows.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–N–3708 for ''InvaGen Pharmaceuticals, Inc.; Proposal to Withdraw Approval of an Abbreviated New Drug Application for Trandolapril Tablets; Opportunity for a Hearing.'' 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:

Maryll W. Toufanian, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1720, Silver Spring, MD 20993–0002, 240–402–7944.

SUPPLEMENTARY INFORMATION:

I. Background

A. Approval of ANDA 078320 for Trandolapril Tablets

FDA's Office of Generic Drugs (OGD) approved ANDA 078320, held by InvaGen Pharmaceuticals, Inc. (InvaGen), for a generic version of trandolapril tablets, 1 milligram (mg), 2 mg, and 4 mg, under the requirements of section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) and FDA's implementing regulations. OGD approved ANDA 078320 on June 12, 2007.

In seeking approval of its ANDA 078320, InvaGen relied on the reference listed drug (RLD) product, MAVIK (trandolapril) tablets, 1 mg, 2 mg, and 4 mg, approved under new drug application (NDA) 020528 (see § 314.94 (21 CFR 314.94)). As an applicant under section 505(j) of the FD&C Act, InvaGen was not required to conduct clinical studies to demonstrate the safety and effectiveness of its drug product. Rather, in addition to meeting the other requirements for ANDA approval enumerated in section 505(j) of the FD&C Act and applicable FDA regulations, InvaGen was required to demonstrate that its product was bioequivalent to the RLD, MAVIK (see section 505(j)(2)(A)(iv) and (j)(4)(F) of the FD&C Act; § 314.94(a)(7); 21 CFR 314.127(a)(6)(i)). The information that InvaGen submitted to show that its ANDA 078320 was bioequivalent to the RLD included bioequivalence studies, with the bioanalytical analysis conducted by Cetero Research at the Houston, TX site during 2005–2006.

B. Investigations Regarding Bioequivalence Studies Conducted by Cetero Research

In May 2010 and December 2010, FDA conducted comprehensive inspections of bioequivalence studies conducted by Cetero Research at the Houston, TX site. The inspections were part of FDA's Bioresearch Monitoring Program, which includes inspections to evaluate the conduct of research, to confirm that data intended for submission to FDA are reliable as a basis for FDA approval and regulatory decisions, and to verify compliance with the bioavailability and bioequivalence requirements in section 505 of the FD&C Act and 21 CFR part 320. The findings of these inspections of bioequivalence studies conducted by Cetero Research raised significant concerns about the validity of the reported results of analytical studies conducted between April 1, 2005, and June 15, 2010, in support of drug applications (see Ref. 1). The

inspections and a third-party audit identified significant instances of misconduct and violations of Federal regulations, including document falsification and sample manipulation. The pattern of misconduct was serious enough to raise concerns about the integrity of the data that Cetero Research generated during the 5-year time frame between 2005 and 2010. On July 26, 2011, FDA notified pharmaceutical companies that bioanalytical studies conducted at Cetero Research between April 1, 2005, and June 15, 2010, in support of marketing applications may need to be repeated or confirmed (see Ref. 2).

On August 9, 2011, FDA issued a letter to InvaGen regarding ANDA 078320 because this drug product application was supported by bioequivalence studies with the bioanalytical analysis conducted by Cetero Research at the Houston, TX site between April 1, 2005, and June 15, 2010 (see Ref. 3). As FDA noted in its August 9, 2011, correspondence, inspection findings regarding Cetero Research's bioequivalence studies raised significant concerns about the validity of the reported results of the analytical studies conducted between April 2005 and June 2010 in support of drug applications, and as such, steps needed to be taken to demonstrate the bioequivalence of InvaGen's drug product approved under ANDA 078320. FDA informed InvaGen that ANDA 078320 needed to be supplemented by conducting new bioequivalence studies or re-assaying the samples from the original bioequivalence study. FDA recommended to InvaGen that the results of the requested bioequivalence studies, or re-assays, be submitted to ANDA 078320 within 6 months of the date of the August 9, 2011, letter. As noted in the August 9, 2011, correspondence, if the necessary information was not submitted within the recommended timeframe, FDA would consider downgrading the therapeutic equivalence evaluation of approved applications in the Agency's ''Approved Drug Products With Therapeutic Equivalence Evaluations'' (Orange Book) from an ''AB'' to a ''BX'' rating because of new information raising a significant question as to bioequivalence. FDA did not receive a response from InvaGen to this August 9, 2011, correspondence.

On August 19, 2016, FDA issued another letter to InvaGen requesting that, within 30 calendar days, InvaGen either: (1) Supplement ANDA 078320 with the requested bioequivalence data or (2) voluntarily seek withdrawal of ANDA 078320 under § 314.150 (21 CFR 314.150(d)) and waive the opportunity for a hearing under § 314.150(a) (see Ref. 4). As noted in the August 19, 2016, correspondence, if InvaGen did not submit new bioequivalence data within 30 calendar days, if the new data did not support a finding of bioequivalence, or if InvaGen did not agree to voluntarily seek withdrawal of ANDA 078320 within 30 calendar days, FDA would commence downgrading the therapeutic equivalence evaluation of approved applications in the Orange Book from an ''AB'' to a ''BX'' rating. FDA also stated that if the aforementioned conditions were not met, FDA would consider all other appropriate regulatory action, including commencing steps to withdraw approval of ANDA 078320 under section 505(e) of the FD&C Act and § 314.150. In response to the August 19, 2016, correspondence, FDA received a letter from InvaGen dated September 16, 2016, requesting a 9-month extension and stating that InvaGen was working to conduct new studies to submit to the Agency (see Ref. 5).

On April 24, 2017, FDA issued a third letter to InvaGen notifying them that FDA was denying InvaGen's request for a 9-month extension because InvaGen had already had a lengthy period to provide the requested data (see Ref. 6). In the April 24, 2017, correspondence, FDA also notified InvaGen that FDA had changed the therapeutic equivalence evaluation of ANDA 078320 in the Orange Book from an ''AB'' to a ''BX'' rating. Further, in the April 24, 2017, correspondence, FDA requested that InvaGen voluntarily seek withdrawal for ANDA 078320 under § 314.150(d) and waive the opportunity for a hearing under § 314.150(a). FDA requested that InvaGen provide such a withdrawal request or a letter stating that InvaGen would not voluntarily seek withdrawal of the approval of ANDA 078320 no later than May 24, 2017. As noted in the April 24, 2017, correspondence, FDA advised InvaGen that if InvaGen did not agree to voluntarily seek withdrawal of the approval of ANDA 078320 under § 314.150(d), FDA would plan to commence steps to withdraw approval of this ANDA under 505(e) of the FD&C Act and § 314.150. FDA did not receive a response from InvaGen to this April 24, 2017, correspondence.

In the June 2017 Cumulative Supplement to the 37th Edition of the Orange Book, ANDA 078320 was moved to the Discontinued Section of the Orange Book based on notification by InvaGen to the Agency that InvaGen was no longer marketing its drug product approved under ANDA 078320. Because drug products that are in the Discontinued Section of the Orange Book do not have therapeutic equivalence codes and because ANDA 078320 is currently in the Discontinued Section of the Orange Book, ANDA 078320 is not currently assigned a therapeutic equivalence code.

II. Conclusions and Proposed Action

An NDA applicant must submit ''full reports of investigations'' to show that the drug for which the applicant is seeking approval is safe and effective. In other words, NDAs must meet the safety and substantial evidence of effectiveness standard (see section 505(b)(1) and (2), (c), and (d) of the FD&C Act). An NDA applicant can meet the standard by conducting its own clinical studies (stand-alone application) or relying, in part, on the Agency's previous finding of safety and/or effectiveness or literature (a 505(b)(2) application). An ANDA applicant does not submit independent clinical studies to demonstrate safety and effectiveness. Rather, an ANDA applicant relies on the Agency's previous finding of safety and effectiveness for its RLD and is required to meet other requirements, such as demonstrating bioequivalence to the RLD to support approval. In the absence of information showing bioequivalence between the generic drug at issue and the RLD, there is no basis for concluding that the Agency's finding of safety and efficacy supporting approval of the RLD can be used as a basis to support approval of the generic drug. Section 505(e) of the FD&C Act provides FDA the authority to withdraw approval of an ANDA in these circumstances. While the InvaGen application was approved on the basis of a bioequivalence study, new information about the facility that conducted the bioanalytical analysis for that study leads CDER to conclude that the results of that study are not credible.

Therefore, based on all available data and information, notice is given to InvaGen Pharmaceuticals, Inc. and to all other interested persons that the Director of CDER proposes to issue an order, under section 505(e) of the FD&C Act and § 314.150, withdrawing approval of ANDA 078320 and all amendments and supplements to it on the grounds that InvaGen has failed to submit the required bioequivalence data necessary to demonstrate the bioequivalence of its drug product.

III. Hearing Procedures

In accordance with section 505(e) of the FD&C Act, InvaGen Pharmaceuticals, Inc. is hereby provided an opportunity to request a hearing to show why approval of ANDA 078320 should not be withdrawn and an

opportunity to raise, for administrative determination, all issues relating to the legal status of the drug product covered by this application.

An applicant who decides to seek a hearing must file the following: (1) A written notice of participation and request for a hearing (see **DATES** and **ADDRESSES**) and (2) the data, information, and analyses relied on to demonstrate that there is a genuine and substantial issue of fact that requires a hearing (see **DATES** and **ADDRESSES**). Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for a hearing, notice of participation and request for a hearing, the information and analyses to justify a hearing, other comments, and a grant or denial of a hearing are contained in § 314.200 (21 CFR 314.200) and in 21 CFR part 12.

The failure of an applicant to file a timely written notice of participation and request for a hearing, as required by § 314.200, constitutes an election by that applicant not to avail itself of the opportunity for a hearing concerning CDER's proposal to withdraw approval of the application and constitutes a waiver of any contentions concerning the legal status of the drug product. FDA will then withdraw approval of the application, and the drug product may not thereafter be lawfully introduced or delivered for introduction into interstate commerce. Any new drug product introduced or delivered for introduction into interstate commerce without an approved application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If a request for a hearing is not complete or is not supported, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, and denying a hearing.

Paper submissions under this notice of opportunity for a hearing must be filed in two copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen at the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *https://www.regulations.gov.*

This notice is issued under section 505(e) of the FD&C Act and under authority delegated to the Director of CDER by the Commissioner of Food and Drugs.

IV. References

The following references are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *https://www.regulations.gov.* FDA has verified the website address, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. Letter from Leslie Ball, FDA, to Roger Hayes, Cetero Research, July 26, 2011.
2. FDA, ''Notification to Pharmaceutical Companies: Acceptance of third-party data integrity audit for Cetero studies conducted from March 1, 2008, to August 31, 2009'' (*https://wayback.archive-it.org/7993/20170113203457/http:/www.fda.gov/Drugs/DrugSafety/ucm265559.htm*), accessed September 10, 2019.
3. Letter from Keith Webber, FDA, to InvaGen Pharmaceuticals, Inc., August 9, 2011.
4. Letter from Carol A. Holquist, FDA, to InvaGen Pharmaceuticals, Inc., August 19, 2016.
5. Letter from Ram Mohan Kathuroju, InvaGen Pharmaceuticals, Inc., to FDA, September 16, 2016.
6. Letter from Carol A. Holquist, FDA, to InvaGen Pharmaceuticals, Inc., April 24, 2017.

Dated: October 21, 2019.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 2019–23461 Filed 10–25–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–3723]

Watson Laboratories, Inc.; Proposal To Withdraw Approval of an Abbreviated New Drug Application for Oxycodone Hydrochloride and Ibuprofen Tablets; Opportunity for a Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration's (FDA or Agency) Center for Drug Evaluation and Research (CDER) is proposing to withdraw approval of an abbreviated new drug application (ANDA) for oxycodone hydrochloride and ibuprofen tablets and is announcing an opportunity for the holder of the ANDA to request a hearing on this proposal. The basis for the proposal is that the holder of the ANDA has repeatedly failed to submit the required data to support a finding of bioequivalence for this ANDA.

DATES: Watson Laboratories, Inc. may submit a request for a hearing by November 27, 2019. Submit all data, information, and analyses upon which the request for a hearing relies by December 27, 2019. Submit electronic or written comments by December 27, 2019.

ADDRESSES: The request for a hearing may be submitted by Watson Laboratories, Inc. by either of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments to submit your request for a hearing. Comments submitted electronically to *https://www.regulations.gov,* including any attachments to the request for a hearing, will be posted to the docket unchanged.

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.
- Because your request for a hearing will be made public, you are solely responsible for ensuring that your request 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. The request for a hearing must include the Docket No. FDA–2019–N–3723 for ''Watson Laboratories, Inc.; Proposal to Withdraw Approval of an Abbreviated New Drug Application for Oxycodone Hydrochloride and Ibuprofen Tablets; Opportunity for a Hearing.'' The request for a hearing will be placed in the docket and publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

Watson Laboratories, Inc., may submit all data and analyses upon which the request for a hearing relies in the same manner as the request for a hearing except as follows:

- Confidential Submissions—To submit any data and analyses with confidential information that you do not wish to be made publicly available,

submit your data and analyses only as a written/paper submission. You should submit two copies total of all data and analyses. 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 any decisions on this matter. 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* or available at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday. Submit both copies to the Dockets Management Staff. Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law.

Comments Submitted by Other Interested Parties: For all comments submitted by other interested parties submit comments as follows.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–N–3723 for ''Watson Laboratories, Inc.; Proposal to Withdraw Approval of an Abbreviated New Drug Application for Oxycodone Hydrochloride and Ibuprofen Tablets; Opportunity for a Hearing.'' 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: Maryll W. Toufanian, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1720, Silver Spring, MD 20993–0002, 240–402–7944.

SUPPLEMENTARY INFORMATION:

I. Background

A. Approval of ANDA 078394 for Oxycodone Hydrochloride and Ibuprofen Tablets

FDA's Office of Generic Drugs (OGD) approved ANDA 078394, held by Watson Laboratories, Inc. (Watson),[1] for a generic version of oxycodone hydrochloride and ibuprofen tablets, 5 milligrams (mg)/400 mg, under the requirements of section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) and FDA's implementing regulations. OGD approved ANDA 078394 on November 26, 2007.

In seeking approval of its ANDA 078394, Watson relied on the reference listed drug (RLD) product, COMBUNOX (oxycodone hydrochloride and ibuprofen) tablets, 5 mg/400 mg, approved under new drug application (NDA) 021378 (see § 314.94 (21 CFR 314.94)). As an applicant under section 505(j) of the FD&C Act, Watson was not required to conduct clinical studies to demonstrate the safety and effectiveness of its drug product. Rather, in addition to meeting the other requirements for ANDA approval enumerated in section 505(j) of the FD&C Act and applicable FDA regulations, Watson was required to demonstrate that its product was bioequivalent to the RLD, COMBUNOX (see section 505(j)(2)(A)(iv) and (j)(4)(F) of the FD&C Act; § 314.94(a)(7); 21 CFR 314.127(a)(6)(i)). The information that Watson submitted to show that its ANDA 078394 was bioequivalent to the RLD included bioequivalence studies, with the bioanalytical analysis conducted by Cetero Research at the Houston, TX site during 2006.

B. Investigations Regarding Bioequivalence Studies Conducted by Cetero Research

In May 2010 and December 2010, FDA conducted comprehensive inspections of bioequivalence studies conducted by Cetero Research at the Houston, TX site. The inspections were part of FDA's Bioresearch Monitoring

[1] In correspondence dated February 23, 2017, Watson notified FDA that Watson is an indirect, wholly-owned subsidiary of Teva Pharmaceuticals USA, Inc.

Program, which includes inspections to evaluate the conduct of research, to confirm that data intended for submission to FDA are reliable as a basis for FDA approval and regulatory decisions, and to verify compliance with the bioavailability and bioequivalence requirements in section 505 of the FD&C and Act 21 CFR part 320. The findings of these inspections of bioequivalence studies conducted by Cetero Research raised significant concerns about the validity of the reported results of analytical studies conducted between April 1, 2005, and June 15, 2010, in support of drug applications (see Ref. 1). The inspections and a third-party audit identified significant instances of misconduct and violations of Federal regulations, including document falsification and sample manipulation. The pattern of misconduct was serious enough to raise concerns about the integrity of the data that Cetero Research generated during the 5-year time frame between 2005 and 2010. On July 26, 2011, FDA notified pharmaceutical companies that bioanalytical studies conducted at Cetero Research between April 1, 2005, and June 15, 2010, in support of marketing applications may need to be repeated or confirmed (see Ref. 2).

On August 9, 2011, FDA issued a letter to Watson regarding ANDA 078394 because this drug product application was supported by bioequivalence studies with the bioanalytical analysis conducted by Cetero Research at the Houston, TX site between April 1, 2005, and June 15, 2010 (see Ref. 3). As FDA noted in its August 9, 2011, correspondence, inspection findings regarding Cetero Research's bioequivalence studies raised significant concerns about the validity of the reported results of the analytical studies conducted between April 2005 and June 2010 in support of drug applications, and as such, steps needed to be taken to demonstrate the bioequivalence of Watson's drug product approved under ANDA 078394. FDA informed Watson that ANDA 078394 needed to be supplemented by conducting new bioequivalence studies or re-assaying the samples from the original bioequivalence study. FDA recommended to Watson that the results of the requested bioequivalence studies, or re-assays, be submitted to ANDA 078394 within 6 months of the date of the August 9, 2011, letter. As noted in the August 9, 2011 correspondence, if the necessary information was not submitted within the recommended timeframe, FDA would consider downgrading the therapeutic equivalence evaluation of approved applications in the Agency's ''Approved Drug Products With Therapeutic Equivalence Evaluations'' (Orange Book) from an ''AB'' to a ''BX'' rating because of new information raising a significant question as to bioequivalence. FDA did not receive a response from Watson to this August 9, 2011, correspondence.

On August 19, 2016, FDA issued another letter to Watson requesting that, within 30 calendar days, Watson either: (1) Supplement ANDA 078394 with the requested bioequivalence data or (2) voluntarily seek withdrawal of ANDA 078394 under § 314.150 (21 CFR 314.150(d)) and waive the opportunity for a hearing under § 314.150(a) (see Ref. 4). As noted in the August 19, 2016, correspondence, if Watson did not submit new bioequivalence data within 30 calendar days, if the new data did not support a finding of bioequivalence, or if Watson did not agree to voluntarily seek withdrawal of ANDA 078394 within 30 calendar days, FDA would commence downgrading the therapeutic equivalence evaluation of approved applications in the Orange Book from an ''AB'' to a ''BX'' rating. FDA also stated that if the aforementioned conditions were not met, FDA would consider all other appropriate regulatory action, including commencing steps to withdraw approval of ANDA 078394 under section 505(e) of the FD&C Act and § 314.150. FDA did not receive a response from Watson to this August 19, 2016, correspondence.

On April 24, 2017, FDA issued Watson a third letter notifying them that FDA had changed the therapeutic equivalence evaluation of ANDA 078394 in the Orange Book from an ''AB'' to a ''BX'' rating (see Ref. 5). Further, in the April 24, 2017, correspondence, FDA requested that Watson voluntarily seek withdrawal for ANDA 078394 under § 314.150(d) and waive the opportunity for a hearing under § 314.150(a). FDA requested that Watson provide such a withdrawal request or a letter stating that Watson would not voluntarily seek withdrawal of the approval of ANDA 078394 no later than May 24, 2017. As noted in the April 24, 2017, correspondence, FDA advised Watson that if Watson did not agree to voluntarily seek withdrawal of the approval of ANDA 078394 under § 314.150(d), FDA would plan to commence steps to withdraw approval of this ANDA under 505(e) of the FD&C Act and § 314.150. FDA did not receive a response from Watson to this April 24, 2017, correspondence.

In the June 2017 Cumulative Supplement to the 37th Edition of the Orange Book, ANDA 078394 was moved to the Discontinued Section of the Orange Book based on notification by Watson to the Agency that Watson was no longer marketing its drug product approved under ANDA 078394. Because drug products that are in the Discontinued Section of the Orange Book do not have therapeutic equivalence codes and because ANDA 078394 is currently in the Discontinued Section of the Orange Book, ANDA 078394 is not currently assigned a therapeutic equivalence code.

II. Conclusions and Proposed Action

An NDA applicant must submit ''full reports of investigations'' to show that the drug for which the applicant is seeking approval is safe and effective. In other words, NDAs must meet the safety and substantial evidence of effectiveness standard (see section 505(b)(1) and (2), (c), and (d) of the FD&C Act). An NDA applicant can meet the standard by conducting its own clinical studies (stand-alone application) or relying, in part, on the Agency's previous finding of safety and/or effectiveness or literature (a 505(b)(2) application). An ANDA applicant does not submit independent clinical studies to demonstrate safety and effectiveness. Rather, an ANDA applicant relies on the Agency's previous finding of safety and effectiveness for its RLD and is required to meet other requirements, such as demonstrating bioequivalence to the RLD to support approval. In the absence of information showing bioequivalence between the generic drug at issue and the RLD, there is no basis for concluding that the Agency's finding of safety and efficacy supporting approval of the RLD can be used as a basis to support approval of the generic drug. Section 505(e) of the FD&C Act provides FDA the authority to withdraw approval of an ANDA in these circumstances. While the Watson application was approved on the basis of a bioequivalence study, new information about the facility that conducted the bioanalytical analysis for that study leads CDER to conclude that the results of that study are not credible.

Therefore, based on all available data and information, notice is given to Watson Laboratories, Inc. and to all other interested persons that the Director of CDER proposes to issue an order, under section 505(e) of the FD&C Act and § 314.150, withdrawing approval of ANDA 078394 and all amendments and supplements to it on the grounds that Watson has failed to submit the required bioequivalence data necessary to demonstrate the bioequivalence of its drug product.

III. Hearing Procedures

In accordance with section 505(e) of the FD&C Act, Watson Laboratories, Inc. is hereby provided an opportunity to request a hearing to show why approval of ANDA 078394 should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug product covered by this application.

An applicant who decides to seek a hearing must file the following: (1) A written notice of participation and request for a hearing (see **DATES** and **ADDRESSES**) and (2) the data, information, and analyses relied on to demonstrate that there is a genuine and substantial issue of fact that requires a hearing (see **DATES** and **ADDRESSES**). Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for a hearing, notice of participation and request for a hearing, the information and analyses to justify a hearing, other comments, and a grant or denial of a hearing are contained in § 314.200 (21 CFR 314.200) and in 21 CFR part 12.

The failure of an applicant to file a timely written notice of participation and request for a hearing, as required by § 314.200, constitutes an election by that applicant not to avail itself of the opportunity for a hearing concerning CDER's proposal to withdraw approval of the application and constitutes a waiver of any contentions concerning the legal status of the drug product. FDA will then withdraw approval of the application, and the drug product may not thereafter be lawfully introduced or delivered for introduction into interstate commerce. Any new drug product introduced or delivered for introduction into interstate commerce without an approved application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If a request for a hearing is not complete or is not supported, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, and denying a hearing.

Paper submissions under this notice of opportunity for a hearing must be filed in two copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen at the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *https://www.regulations.gov.*

This notice is issued under section 505(e) of the FD&C Act and under authority delegated to the Director of CDER by the Commissioner of Food and Drugs.

IV. References

The following references are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *https://www.regulations.gov.* FDA has verified the website address, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. Letter from Leslie Ball, FDA, to Roger Hayes, Cetero Research, July 26, 2011.
2. FDA, ''Notification to Pharmaceutical Companies: Acceptance of third-party data integrity audit for Cetero studies conducted from March 1, 2008, to August 31, 2009'' (*https://wayback.archive-it.org/7993/20170113203457/http:/www.fda.gov/Drugs/DrugSafety/ucm265559.htm*), accessed September 10, 2019.
3. Letter from Keith Webber, FDA, to Watson Laboratories, Inc., August 9, 2011.
4. Letter from Carol A. Holquist, FDA, to Watson Laboratories, Inc., August 19, 2016.
5. Letter from Carol A. Holquist, FDA, to Watson Laboratories, Inc., April 24, 2017.

Dated: October 21, 2019.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 2019–23490 Filed 10–25–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–4657]

Science Advisory Board to the National Center for Toxicological Research Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Science Advisory Board to the National Center for Toxicological Research. The general function of the committee is to provide advice and recommendations to the Agency on research being conducted at the National Center for Toxicological Research. At least one portion of the meeting will be closed to the public.

DATES: The meeting will be held on December 3, 2019 from 8 a.m. to 5:55 p.m., and on December 4, 2018 from 8 a.m. to 11:30 a.m.

ADDRESSES: Heifer Village, 1 World Ave., Little Rock, AR 72202. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.* and *https://www.heifer.org/what-you-can-do/experience-heifer/heifer-village/index.html.*

FOR FURTHER INFORMATION CONTACT: Donna Mendrick, National Center for Toxicological Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 2208, Silver Spring, MD 20993–0002, 301–796–8892, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATON: *Agenda:* On December 3, 2019, the Science Advisory Board Chair will welcome the participants, and the NCTR Director will provide a Center-wide update on scientific initiatives and accomplishments during the past year. The Science Advisory Board will be presented with an overview of the Science Advisory Board Subcommittee Site Visit Report and a response to this review. The Center for Biologics and Evaluation and Research, Center for Drug Evaluation and Research, Center for Devices and Radiological Health, Center for Food Safety and Applied Nutrition, the Center for Tobacco Products and the Office of Regulatory Affairs will each briefly discuss their specific research strategic needs and potential areas of collaboration.

On December 4, 2019, there will be updates from the NCTR Research Divisions and a public comment session. Following an open discussion

of all the information presented, the open session of the meeting will close so the SAB members can discuss personnel issues at NCTR at the end of the day.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee meeting link.

Procedure: On December 3, 2019, from 8 a.m. to 5:55 p.m., and December 4, 2019, from 8 a.m. to 11:30 a.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before November 26, 2019. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on December 3, 2019. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before November 18, 2019. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by November 19, 2019.

Closed Committee Deliberations: On December 4, 2019, from 11:30 a.m. to 12:00 p.m., the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). This portion of the meeting will be closed to permit discussion of information concerning individuals associated with the research programs at NCTR.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Donna Mendrick at least 14 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 21, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–23413 Filed 10–25–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: The Development of an Anti-GPC3 Radionuclide Immunoconjugate for the Treatment of GPC3-Expressing Cancers

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the Supplementary Information section of this notice to Xsto BioSciences, Inc. (Xsto), located in San Carlos, California.

DATES: Only written comments and/or applications for a license which are received by the National Cancer Institute's Technology Transfer Center on or before November 12, 2019 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated an Exclusive Patent License should be directed to: David A. Lambertson, Ph.D., Senior Licensing and Patenting Manager, NCI Technology Transfer Center, 9609 Medical Center Drive, RM 1E530 MSC 9702, Bethesda, MD 20892–9702 (for business mail), Rockville, MD 20850–9702 Telephone: (240)–276–5530; Facsimile: (240)–276–5504 Email: *david.lambertson@nih.gov.*

SUPPLEMENTARY INFORMATION:

Intellectual Property

U.S. Provisional Patent Application 61/477,020 entitled ''Human Monoclonal Antibody Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011–0–US–01], PCT Patent Application PCT/US2012/034186 entitled ''Human Monoclonal Antibodies Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011–0–PCT–02], Chinese Patent 201280029201.3 entitled ''Human Monoclonal Antibodies Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011–0–CN–03], European Patent 2699603 entitled ''Human Monoclonal Antibodies Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011–0–EP–04], and validated in France [HHS Ref. E–130–2011–0–FR–09], Germany [HHS Ref. E–130–2011–0–DE–08] and the United Kingdom [HHS Ref. E–130–2011–0–GB–10] and lodged in Hong Kong [HHS Ref. E–130–2011–0–HK–11], United States Patent 9,206,257 entitled ''Human Monoclonal Antibodies Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011–0–US–05], United States Patent 9,394,364, entitled ''Human Monoclonal Antibodies Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011–0–US–06], European Patent 2998320 entitled ''Human Monoclonal Antibodies Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011–0–EP–07], and validated in France [HHS Ref. E–130–2011–0–FR–23], Germany [HHS Ref. E–130–2011–0–DE–22] and the United Kingdom [HHS Ref. E–130–2011–0–GB–24], United States Patent 9,932,406 entitled ''Human Monoclonal Antibodies Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011–0–US–12], Chinese Patent Application 201610290837.3 entitled ''Human Monoclonal Antibodies Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011–0–CN–13], European Patent 3070104 entitled ''Human Monoclonal Antibodies Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011–0–EP–14], and validated in France [HHS Ref. E–130–2011–0–FR–18], Germany [HHS Ref. E–130–2011–0–DE–16], the United Kingdom [HHS Ref. E–130–2011–0–GB–19], Italy [HHS Ref. E–130–2011–0–IT–20] and Spain [HHS Ref. E–130–2011–0–ES–17] and lodged in Hong Kong [HHS Ref. E–130–2011–0–HK–15], United States Patent Application 15/843,256 entitled ''Human Monoclonal Antibodies Specific for Glypican-3 And Use

Thereof'' [HHS Ref. E–130–2011–0–US–21], and U.S. and foreign patent applications claiming priority to the aforementioned applications.

The patent rights in these inventions have been assigned and/or exclusively licensed to the government of the United States of America.

The prospective exclusive license territory may be worldwide and the field of use may be limited to

(I) The development and commercialization of glypican-3 (GPC3) antibody-based radionuclide conjugates comprising of at least:

a. The complementary determining region (CDR) sequences of the anti-GPC3 antibody known as HN3, and

b. A radionuclide, including but not limited to an alpha, beta, positron, gamma or auger emitting radionuclide, for the treatment of GPC3-expressing cancers.

(II) The development of an FDA-approved *in vivo* radiopharmaceutical, using a binder having the CDR sequences of the anti-GPC3 antibody known as HN3, for the diagnosis and monitoring of GPC3-expressing cancers.

The licensed field of use excludes any (a) non-specified immunoconjugates, including, but not limited to, chimeric antigen receptors (CARs) and variants thereof, immunotoxins, and antibody drug conjugates, and (b) unconjugated antibodies.

This technology discloses monoclonal antibodies that are specific for the cell surface domain of GPC3. These antibodies can potentially be used for the treatment of GPC3-expressing cancers such as HCC. In the subject situation, the antibodies can be used in conjunction to target a radionuclide specifically to GPC3-expressing cells, leading to the selective destruction of the cancerous cells.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information in these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: October 23, 2019.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2019–23481 Filed 10–25–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel; Exploratory Clinical Trials of Mind and Body Interventions (MB).

Date: December 3, 2019.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Martina Schmidt, Ph.D., Chief Office of Scientific Review, National Center for Complementary & Integrative Health, NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, 301–594–3456, *schmidma@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: October 22, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–23402 Filed 10–25–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel Exploratory Clinical Trials of Mind and Body Interventions (MB).

Date: December 3, 2019.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Pamela Jeter, Ph.D., Scientific Review Officer, Office of Scientific Review, Division of Extramural Activities, NCCIH, NIH, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892–547, 301–435–2591, *pamela.jeter@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: October 22, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–23400 Filed 10–25–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings. The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C.,

as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; R13 Conferences and Scientific Meetings.

Date: November 4–5, 2019.

Time: 10:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Keith A. Mintzer, Ph.D., Scientific Review Officer, Office of Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924, 301–594–7947, *mintzerk@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Phase I Clinical Trial and Member Conflicts: Clinical Trials (CLTR) and Single-Site and Pilot Clinical Trials (SSPT) Review.

Date: November 6, 2019.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: YingYing Li-Smerin, MD, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892–7924, 301–827–7942, *lismerin@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Technologies for Healthy Independent Living for Heart, Lung, Blood and Sleep Disorders (R43).

Date: November 7, 2019.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Susan Wohler Sunnarborg, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National, Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7182, Bethesda, MD 20892, *susan.sunnarborg@nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Physician Scientists—Research Award for Early Stage Investigators.

Date: November 13, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Lindsay M. Garvin, Ph.D., Scientific Review Officer, Office of Scientific Review, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Suite 7189, Bethesda, MD 20892, 301–827–7911, *lindsay.garvin@nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Cigarettes, Fibrosis, and Emphysema Special Emphasis Panel.

Date: November 13, 2019.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Shelley S. Sehnert, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7206, Bethesda, MD 20892–7924, 301–435–0303, *ssehnert@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Training Programs for Institutions that Promote Diversity (T32).

Date: November 19, 2019.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lindsay M. Garvin, Ph.D., Scientific Review Officer, Office of Scientific Review, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Suite 7189, Bethesda, MD 20892, 301–827–7911, *lindsay.garvin@nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; BLOODSAFE.

Date: November 21, 2019.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Tony L. Creazzo, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892–7924, 301–827–7913, *creazzotl@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; SBIR Small Market and Bridge Awards Review.

Date: November 26, 2019.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Shelley S. Sehnert, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7206, Bethesda, MD 20892–7924, 301–435–0303, *ssehnert@nhlbi.nih.gov.*

This notice is being published less than 15 days prior to a meeting(s) due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: October 22, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–23403 Filed 10–25–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting. The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and 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: Heart, Lung, and Blood Initial Review Group; NHLBI Mentored Transition to Independence Review Committee.

Date: November 7–8, 2019.

Time: 8:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Giuseppe Pintucci, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892, 301–435–0287, *Pintuccig@nhlbi.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases

and Resources Research, National Institutes of Health, HHS)

Dated: October 22, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–23404 Filed 10–25–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–MB–2019–N135; FF09M21200–190–FXMB1231099BPP0; OMB Control Number 1018–0022]

Agency Information Collection Activities; Federal Fish and Wildlife Permit Applications and Reports—Migratory Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service, we), are proposing to renew an existing information collection with revisions.

DATES: Interested persons are invited to submit comments on or before December 27, 2019.

ADDRESSES: Send your comments on the information collection request by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: JAO/1N PRB/PERMA, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–0022 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed information collection request (ICR) that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Our Regional Migratory Bird Permit Offices use information that we collect on permit applications to determine the eligibility of applicants for permits requested in accordance with the criteria in various Federal wildlife conservation laws and international treaties, including:

(1) Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*).

(2) Lacey Act (18 U.S.C. 42; 16 U.S.C. 3371 *et seq.*).

(3) Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*).

Service regulations implementing these statutes and treaties are in chapter I, subchapter B of title 50 of the Code of Federal Regulations (CFR). These regulations stipulate general and specific requirements that, when met, allow us to issue permits to authorize activities that are otherwise prohibited.

With the exception of Forms 3–186 and 3–186a, all Service permit applications are in the 3–200 and 3–202 series of forms, each tailored to a specific activity based on the requirements for specific types of permits. For this revision, we combined Forms 3–200–10c and 3–200–10d into one form (3–200–10c) to reduce the number of application forms and help streamline the application process. Since both forms dealt with possession for education purposes, and asked virtually the same questions of the applicant, there was no need to have separate forms. We collect standard identifier information for all permits. The information that we collect on applications and reports is the minimum necessary for us to determine if the applicant meets/continues to meet issuance requirements for the particular activity.

Proposed Revisions to This Information Collection

With this submission, we are proposing the following revisions to the existing information collection:

Transfer of Eagle Requirements to OMB Control No. 1018–0167

Information collection requirements associated with the Federal fish and wildlife permit applications and reports for both migratory birds and eagles are currently approved under a single OMB control number, 1018–0022, ''Federal Fish and Wildlife Permit Applications and Reports—Migratory Birds and Eagles; 50 CFR 10, 13, 21, 22.'' With this submission to OMB, we are proposing to reinstate OMB Control Number 1018–0167, ''Eagle Take Permits and Fees, 50 CFR 22'' in order transfer the eagle requirements back in to a separate information collection. This transfer will facilitate easier management of the information collection requirements associated with eagles. We are not proposing any changes to the currently approved eagle requirements. This request will simply transfer the information collection requirements associated with eagles back in to their original collection under OMB Control Number 1018–0167.

ePermits Initiative

The Service will request OMB approval to automate certain migratory bird permit forms. The Service's new ''ePermits'' initiative is an automated permit application system that will allow the agency to move towards a streamlined permitting process to reduce public burden. Public burden reduction is a priority for the Service; the Assistant Secretary for Fish, Wildlife, and Parks; and senior leadership at the Department of the Interior. The intent of the ePermits initiative is to fully automate the permitting process to improve the customer experience and to reduce time burden on respondents. This new system will enhance the user experience by allowing users to enter data from any device that has internet access, including personal computers (PCs), tablets, and smartphones. It will also link the permit applicant to the *Pay.gov*

system for payment of the associated permit application fee.

We anticipate including the following Service forms in the ePermits initiative: 3–186, 3–186a, 3–200–6 through 3–200–9, 3–200–10a through 3–200–10f, 3–200–12 through 3–200–13, 3–200–67, 3–200–79, 3–200–81, 3–202–1 through 3–202–10, 3–202–12, and 3–202–17.

Falconry Program Requirements

Additionally, we will request are proposing to incorporate the information collection requirements associated with the Service's falconry program into this collection (OMB Control No. 1018–0022). Beginning in 2014, the Service passed the authority to issue permits for the practice of falconry to individual States (50 CFR 21.29; 78 FR 72830, December 4, 2013). As part of this change in authority, we required States to maintain databases of falconers authorized to conduct falconry in their States and required falconers to report transfers of falconry birds using the paper version of FWS Form 3–186A. We require each State that maintains its own database to ensure that it is compatible with the Service's database. To date, 47 States utilize the system provided by the Service. The Service's database continues to track take of birds from the wild by falconers and to maintain records of persons permitted by the States to practice falconry, as required by 50 CFR 21.29(k)(1).

The primary purpose of this database is to allow the Service to track take of raptors from the wild by falconers to ensure take does not exceed levels established in the Service's 2008 environmental assessment of the impacts of the falconry regulations on wild raptor populations. The ability to track and document the effects of the wild take of raptors by falconers remains a responsibility of the Service. The database also: (1) Provides falconers and States with the information necessary to allow the efficient movement of falconers and raptors held under falconry permits among States; and (2) ensures that falconers can formally document their experience regardless of the States in which they have resided, which is required to advance from the apprentice—to general—to master-class permit levels.

In 2018, the Service requested and received OMB approval under the Department of the Interior Fast Track generic clearance (OMB Control No. 1090–0011) to conduct usability testing of the revised/repaired application and database functionality. The revised/repairs falconry database (database) replaced a legacy system based on outdated programming. It reduced the cost to the government by eliminating the need for Service personnel to enter data for each new falconer, and simply required the entry of data for State administrators. In addition, this new database enhances the user experience by allowing them to enter data from any device that has internet access, including PCs, tablets, and smart phones. The usability testing helped the Service to address problems and recommendations prior to the database going live. We are now ready to request full OMB approval of the falconry database and the information collection requirements associated with the falconry program.

Goose Requirements

OMB previously approved the information collection requirements associated with the management of geese under two OMB control numbers: 1018–0103, ''Conservation Order for Light Geese, 50 CFR 21.60'' (exp. 03/31/2021) and 1018–0133, ''Control and Management of Resident Canada Geese, 50 CFR 20.21, 21.49, 21.50, 21.51, 21.52 and 21.61'' (exp. 06/30/2022). Since both collections follow the requirements of the Migratory Bird Treaty Act, we are proposing to transfer the information collections into 1018–0022. We are not proposing any changes to the currently approved requirements for either collection and are merely transferring the requirements into 1018–0022. The annual burden associated with 1018–0103 is 21,577 responses, 7,318 burden hours, and $78,000 non-hour cost burden for overhead costs (materials, printing, postage, etc.). The annual burden associated with 1018–0133 is 8,698 responses, 3,360 burden hours, and zero non-hour burden costs. There are no forms associated with either of these two collections.

Title of Collection: Federal Fish and Wildlife Permit Applications and Reports—Migratory Birds; 50 CFR 10, 13, 21.

OMB Control Number: 1018–0022.

Form Number: FWS Forms 3–186, 3–186a, 3–200–6 through 3–200–9, 3–200–10a through 3–200–10f, 3–200–12 through 3–200–13, 3–200–67, 3–200–79, 3–200–81, 3–202–1 through 3–202–10, 3–202–12, and 3–202–17.

Type of Review: Revision of an existing information collection.

Respondents/Affected Public: Individuals; zoological parks; museums; universities; scientists; taxidermists; businesses; utilities; and Federal, State, local, and Tribal governments.

Total Estimated Number of Annual Respondents: 56,984.

Total Estimated Number of Annual Responses: 56,984.

Estimated Completion Time per Response: Varies from 15 minutes to 240 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 213,365.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for applications; annually or on occasion for reports.

Total Estimated Annual Nonhour Burden Cost: $571,975 (primarily associated with application processing fees).

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: October 23, 2019.

Madonna L. Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2019–23459 Filed 10–25–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Registration

ACTION: Notice of registration.

SUMMARY: The registrants listed below have applied for and been granted a registration by the Drug Enforcement Administration (DEA) as a bulk manufacturer of a various classes of schedule I and II controlled substances.

SUPPLEMENTARY INFORMATION: The companies listed below applied to be registered as a bulk manufacturer of various classes of scheduled I and II controlled substances. Information on previously published notices is listed below. No comments or objections were submitted for these notices.

Company	FR docket	Published
American Radiolabeled Chem	84 FR 26446	June 6, 2019.

Company	FR docket	Published
Eli-Elsohly Laboratories	84 FR 27661	June 13, 2019.

The DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of these registrants to manufacture the applicable basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing each company's physical security systems, verifying each company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the DEA has granted a registration as a bulk manufacturer to the above listed companies.

Dated: October 18, 2019.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2019–23501 Filed 10–25–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Catalent CTS, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before November 27, 2019. Such persons may also file a written request for a hearing on the application on or before November 27, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on July 16, 2019, Catalent CTS, LLC, 10245 Hickman Mills Drive, Kansas City, Missouri 64137–1418 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I

The company plans to import finished dosage unit products containing gamma-hydroxybutryic acid and marihuana extracts for clinical trial studies. These marihuana extracts compounds are listed under drug code 7350. No other activity for these drug codes is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA-approved or non-approved finished dosage forms for commercial sale.

Dated: October 18, 2019.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2019–23502 Filed 10–25–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Euticals Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before December 27, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on June 27, 2019, Euticals Inc., 2460 W Bennett Street, Springfield, Missouri 65807–1229 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I
Amphetamine	1100	II
Lisdexamfetamine	1205	II
Methylphenidate	1724	II
Phenylacetone	8501	II
Methadone	9250	II
Methadone intermediate	9254	II
Oripavine	9330	II
Tapentadol	9780	II

The company plans to manufacture the above-listed controlled substances in bulk for distribution to its customers.

Dated: October 18, 2019.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2019–23499 Filed 10–25–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

[Bulk Manufacturer of Controlled Substances Registration

ACTION: Notice of registration.

SUMMARY: The registrants listed below have applied for and been granted registration by the Drug Enforcement Administration (DEA) as bulk manufacturers of various classes of schedule I and II controlled substances.

SUPPLEMENTARY INFORMATION: The companies listed below applied to be registered as a bulk manufacturers of various classes of scheduled I and II controlled substances. Information on previously published notices is listed below. No comments or objections were submitted for these notices.

Company	FR Docket	Published
SpecGx LLC	84 FR 26447	June 6, 2019.
Sigma Aldrich Research	84 FR 27659	June 13, 2019.

The DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of these registrants to manufacture the applicable basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated each of the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing each company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the DEA has granted a registration as a bulk manufacturer to the above listed companies.

Dated: October 16, 2019.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2019–23500 Filed 10–25–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 17–21]

Lesly Pompy, M.D.; Decision and Order

On March 2, 2017, a former Acting Administrator of the Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause and Immediate Suspension of Registrations to Lesly Pompy, M.D. (hereinafter, Respondent), of Monroe, Michigan. Administrative Law Judge Exhibit (hereinafter, ALJX) 1 (Order to Show Cause and Immediate Suspension of Registrations (hereinafter collectively, OSC)), at 1. The OSC informed Respondent of the immediate suspension of his DEA Certificates of Registration BP2527058 and FP2665478 pursuant to 21 U.S.C. 824(d) ''because . . . [his] continued registration constitute[d] an imminent danger to the public health and safety.'' *Id.*

The substantive ground for the proceeding, as alleged in the OSC, is that Respondent ''committed such acts as would render . . . [his] registrations under 21 U.S.C. 823(f) inconsistent with the public interest. *See* 21 U.S.C. 824(a)(4).'' *Id.* at 2. Specifically, the OSC alleges that Respondent issued numerous prescriptions, including to an undercover investigator, outside the usual course of the professional practice of medicine in violation of 21 CFR 1306.04(a) and in violation of the minimal standards of medical practice in Michigan. *Id.* at 2–3. The OSC also alleges that, at one of his registered locations and at his (unregistered) residence, Respondent unlawfully possessed numerous controlled substances including, but not limited to, varying quantities of Schedule II controlled substances that had been dispensed to patients. *Id.* at 4 (citing 21 CFR 1301.12, 1317.30, and 1317.40; Mich. Comp. Laws § 333.7403). Finally, the OSC alleges that Respondent was unable to provide any of the records that DEA requested concerning his two registrations—an inventory at both registered locations and records for each controlled substance received, sold, and delivered. OSC, at 4 (citing 21 CFR 1304.11 and 1304.21).

On March 2, 2017, based on his preliminary findings that Respondent prescribed controlled substances outside the usual course of the professional practice, unlawfully possessed controlled substances at both his home and his office, and committed numerous recordkeeping violations, the former Acting Administrator concluded that Respondent's ''continued registration . . . [was] inconsistent with the public interest.'' OSC, at 5. Citing 21 U.S.C. 824(d), he also made the preliminary finding that Respondent's continued registration during the pendency of proceedings ''would constitute an imminent danger to the public health or safety because of the substantial likelihood that . . . [Respondent] will continue to prescribe controlled substances in a manner that . . . creates a substantial likelihood of an immediate threat that death, serious bodily harm, or abuse of a controlled substance will occur.'' *Id.* Pursuant to 21 U.S.C. 824(f) and 21 CFR 1301.36(f), the former Acting Administrator authorized the DEA Special Agents and Diversion Investigators serving the OSC on Respondent to place under seal or to remove for safekeeping all controlled substances Respondent possessed pursuant to the immediately suspended registrations. *Id.* The former Acting Administrator also directed those DEA employees to take possession of Respondent's Certificates of Registration BP2527058 and FP2665478 and any unused prescription forms. *Id.*

The OSC notified Respondent of his right to request a hearing on the allegations or to submit a written statement while waiving his right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* at 5–6 (citing 21 CFR 1301.43). According to the Government's Notice of Service, a member of the DEA Detroit Field Division personally served the OSC on Respondent on March 3, 2017. ALJX 2 (Government's Notice of Service of OSC/ISO), at 1.

By letter dated March 16, 2017, Respondent timely requested a hearing. ALJX 3, at 1. The matter was placed on the docket of the Office of Administrative Law Judges and assigned to Chief Administrative Law Judge John J. Mulrooney, II (hereinafter, Chief ALJ). On March 16, 2017, he established a schedule for the filing of prehearing statements. ALJX 4 (Order for Prehearing Statements), at 1. On April 20, 2017, the Chief ALJ issued a Prehearing Ruling that, among other things, set out the six Stipulations already agreed upon and established schedules for the filing of additional joint stipulations and supplemental prehearing statements. ALJX 11 (Prehearing Ruling) at 1–2.[1]

The Government filed its Prehearing Statement on March 29, 2017, and its Supplemental Prehearing Statement on June 8, 2017. ALJX 9 and 17, respectively. Respondent filed his Prehearing Statement on April 19, 2017, and his Supplemental Prehearing Statement on June 7, 2017. ALJX 10 and 20, respectively.

The hearing in this matter spanned seven days and took place at multiple locations.[2] On August 4, 2017, after the sixth day of hearings, the Government filed a Notice of Respondent's Lack of State Authority. ALJX 29 (hereinafter,

[1] The parties agreed to an additional 26 stipulations. ALJX 26 and ALJX 30. The first 31 stipulations are set out on pages 3 to 5 of the Chief ALJ's recommendations. The last stipulation is: ''On August 4, 2017, Dr. Pompy was served with a copy of an Order of Summary Suspension by the State of Michigan Department of Licensing and Regulatory Affairs. This order became effective upon service and summarily suspended Dr. Pompy's medical license.'' ALJX 30.

[2] Hearings were held in Detroit, Michigan on July 11, 12, 13, and 14, 2017 and in Arlington, Virginia on July 31, August 1, and August 21, 2017.

Notice). According to the Notice, the Government learned hours before filing the Notice that the Michigan Department of Licensing and Regulatory Affairs had served Respondent with a summary suspension of his medical license. *Id.* at 1. Although lack of State authority was not charged in the OSC, the Notice states that this allegation may be raised at any stage of a proceeding, even *sua sponte* by the Administrator. *Id.* (citing *Hatem M. Ataya, M.D.,* 81 FR 8,221, 8,224 (2016)). The Notice states the Government's intention to continue litigating the OSC to its final conclusion. Notice, at 2.

The Recommended Rulings, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge (hereafter, R.D.) is dated December 20, 2017. Neither party filed exceptions to the R.D. Transmittal Letter, at 1.

Having considered the record in its entirety, I agree with the R.D. that the record establishes, by substantial evidence, two independent grounds for the revocation of Respondent's registrations: (1) Respondent committed acts rendering his continued registration inconsistent with the public interest and (2) Respondent lacks authority in Michigan to practice medicine and to handle controlled substances.[3] R.D., at 124–126. I further agree with the R.D. that Respondent's acceptance of responsibility is insufficient and that, even if it were sufficient, Respondent did not offer adequate remedial measures. *Id.* at 126–127.

Accordingly, I conclude that the appropriate sanctions are (1) For both of Respondent's DEA Certificates of Registration to be revoked; (2) for any pending application by Respondent to renew or modify these registrations to be denied; (3) for any other pending application by Respondent for registration in Michigan to be denied; (4) for the Order of Immediate Suspension of Registrations issued to Respondent to be affirmed; (5) for all controlled substances seized pursuant to the Order of Immediate Suspension of Registrations to be forfeited to the United States according to statutory provisions; and, (6) for all right, title, and interest in those controlled substances to be vested in the United States according to statutory provisions. *See id.* at 127–129. I make the following findings.

[3] My conclusion that Respondent committed acts rendering his continued registration inconsistent with the public interest would not change if Respondent regains authority to practice medicine in Michigan.

Findings of Fact

Respondent's DEA Registrations

Respondent is registered with the DEA as a practitioner in schedules II through V under DEA Certificate of Registration No. FP2665478, at Interventional Pain Management, 307 Stewart Road, Monroe, Michigan 48162–2934. Government Exhibit (hereinafter, GX) 1 (Respondent's CORs), at 1; *see also* GX 2 (Registration History for Respondent's CORs), at 1, ALJX 11, at 2 (Stipulation No. 3). This registration expires on March 31, 2020. GX 1, at 1; *see also* GX 2, at 1, ALJX 11, at 2 (Stipulation No. 3). Respondent is also registered with the DEA as a practitioner DW/100 in schedules II through V under DEA Certificate of Registration No. BP2527058 at 730 North Macomb Street, Suite #222, Monroe, Michigan 48162. GX 1, at 2; *see also* GX 2, at 3, ALJX 11, at 1 (Stipulation No. 1). On February 27, 2017, DEA received a renewal and change of address for this registration and put this registration in a ''renewal pending'' status. GX 2, at 1, 3; *see also* ALJX 11, at 1–2 (Stipulation No. 2). Both of these registrations were suspended pursuant to the Immediate Suspension Order dated March 2, 2017, ''after which date no controlled substances could be legally obtained, stored, administered, prescribed, or dispensed.'' GX 2, at 1, 3.

The Investigation of Respondent

The Monroe Area Narcotics Team and Investigative Service in Michigan (hereinafter, MANTIS) investigated Respondent and his medical practice, Interventional Pain Management. The investigation concerned whether Respondent issued controlled substance prescriptions without a medical need and included information from search warrants and undercover visits to Respondent's medical practice.

According to MANTIS, Blue Cross Blue Shield of Michigan (hereinafter, BCBS) documents report that Respondent ''prescribed the most overall prescription medication of the . . . [2,304] providers in his same specialty during the date range of 01/2014 to 12/2014.''[4] GX 11 (Michigan Department of State Police ''MTS Supplemental Incident Report 0002'' dated Sept. 21, 2016), at 1. MANTIS also cited BCBS documents as stating that, based on claims submitted to BCBS, Respondent prescribed the ''most controlled prescription medication'' and the ''most days [sic] supply of controlled prescription medication'' of the same 2,304 providers during the same time period. *Id.* at 1–2. The MANTIS report states that BCBS documents also report that Respondent ranked first in 2015 for the ''total day supply of controlled medication (52,026) . . . and total quantity dispensed of controlled prescription medication (136,267).'' *Id.* at 2.

[4] BCBS was also involved in the MANTIS investigation, at least initially. Transcript page (hereinafter, Tr.) 140.

The Allegations of Dispensing and Non-Dispensing Violations

The OSC alleges three bases for the revocation of Respondent's registrations pursuant to 21 U.S.C. 824(a)(4) and for the denial of any pending applications pursuant to 21 U.S.C. 823(f). In addition, as already discussed, the Government filed Notice of the Respondent's lack of State authority during the hearing. Notice, at 1 (citing 21 U.S.C. 824(a)(3)).

There is factual agreement among the witnesses on a number of matters. When there is factual disagreement, I apply the R.D.'s credibility recommendations, all of which I adopt. *See* R.D., at 5–106.

The Government's Case

The Government's documentary evidence consists primarily of medical records for six patients, including records concerning an undercover investigator. The Government called five witnesses: A DEA Diversion Investigator (hereinafter, DI); a Detective assigned to MANTIS (hereinafter, MANTIS Det); a BCBS investigator who made undercover visits to Respondent's medical practice (hereinafter U/C); a Detective assigned to the Monroe County Sheriff's Office (hereinafter, Monroe Det); and its expert, Dr. Carl Christensen.

DI testified about his investigation-related actions, including his roles in executing search warrants at Respondent's property and in interviewing Respondent and Respondent's employees. Tr. 34–114, 1811–23; *see also* R.D., at 5–9. Having read and analyzed all of the record evidence, I agree with the R.D. that DI ''presented as an objective, rational, careful regulator who was not prone to exaggeration or hyperbole.'' R.D., at 9. I also agree that DI's testimony is ''sufficiently detailed, plausible, and internally consistent'' to be given full credibility. *Id.*

MANTIS Det testified about the investigative work that MANTIS did regarding Respondent, including search warrants and U/C visits. Tr. 117–29, 134–60; *see also* R.D., at 9–11. He testified as the drafter of the search warrant for one of Respondent's offices

and the supervisor of the execution of that search warrant. He also testified that he drafted and served a search warrant on a bank regarding Respondent's financial records. Having read and analyzed all of the record evidence, I agree with the R.D. that MANTIS Det ''presented as an objective, rational, careful law enforcement officer'' and that his testimony deserves ''full credibility.'' R.D., at 11.

U/C testified about his role in the investigation of Respondent and his role-related training and experience. Tr. 164–246, 247–311, 884–90; *see also* R.D., at 11–25. U/C's interactions with Respondent and Respondent's medical practice are recorded in videos and transcriptions of those videos. GX 9 (Transcript of U/C Visits from January 5, 2016 through May 17, 2016 (hereinafter, U/C Visits Transcript)); *see also* GX 8 (U/C patient file).

Monroe Det testified about the scope of the search warrant executed at Respondent's office and home, iPatientCare, and his role in the investigation.[5] Tr. 895–914; *see also* R.D., at 25–26. Having read and analyzed all of the record evidence, I agree with the R.D. that Monroe Det ''presented as an impartial law enforcement officer and provided testimony that was sufficiently plausible, detailed, and internally consistent to be afforded full credibility.'' R.D., at 26.

The Government's expert, Dr. Carl Christensen, is a physician licensed and practicing in Michigan. GX 18 (Curriculum Vitae of Dr. Carl Christensen, M.D., Ph.D.). He is Board certified in Addiction Medicine, holds doctorates in Medicine and Biochemistry, and is registered with the DEA and the State of Michigan to handle controlled substances.[6] *Id.;* Tr. 314–15. The Chief ALJ accepted Dr. Christensen as an expert in the treatment of pain and in the standard of care for controlled substance prescribing in the State of Michigan. Tr. 325–26. The matters about which Dr. Christensen testified included his review and standard-of-care analysis of medical records belonging to six of Respondent's patients, including U/C. *E.g., id.* at 326–44, 363–464, 466–533, 536–90, 594–95, 603–38, 645–809, 816–69, 871–80, 1789–1810; *see also* R.D., at 26–54. Having read and analyzed all of the record evidence, I agree with the R.D. that Dr. Christensen, ''[o]verall, . . . presented persuasive testimony regarding the standard of care applicable to controlled substance prescribers in Michigan.'' R.D., at 53. I also agree that Dr. Christensen is a ''well-credentialed, thoughtful, candid expert witness who presented the most persuasive expert testimony received at the hearing.''[7] *Id.* at 54.

Respondent's Case

Respondent testified and called five witnesses: A medical assistant (hereinafter, MA), who worked for him; a lab technician (hereinafter, LT), who worked at Respondent's practice; a Licensed Practical Nurse (hereinafter, LPN), who worked for Respondent and has known him since 1992; the Office Manager (hereinafter, OM) for Respondent's practice since about 2010 who, prior to working for him, was one of his patients; and his expert, Dr. Lynn Webster, an anesthesiologist board certified in Anesthesia, Pain Medicine, and Addiction Medicine.

Respondent testified over the course of several days.[8] The topics addressed in his direct testimony included: His background, education, and accomplishments (*e.g.,* Tr. 924–37, 941, 942–43); the administration and staffing of his medical practice (*e.g., id.* at 942–50, 1292–95, 1392–1418, 1472, 1477–86); policies, procedures, and practices concerning new and existing patients (*e.g., id.* at 936–41, 1393, 1414–69); diversion-related issues (*e.g., id.* at 1398–1400, 1433–36); his practice's medical records (*e.g., id.* at 1404–13, 1494); search warrant execution (*e.g., id.* at 1472–76, 1498–99); the unlawful possession of controlled substances allegation (*e.g., id.* at 1486–94); the recordkeeping allegations (*e.g., id.* at 1494–99); the TIRF REMS[9] Program, including Subsys prescriptions and presentations (*e.g., id.* at 1499–1522); and his treatment of specific patients (*e.g., id.* at 1529–48 (RB), 1556–87 (DA), 1587–1610 (RF), 1611–28 (ES), 1628–44 (JH), 1644–94 (U/C).[10] *See also* R.D., at 84–106.

Having read and analyzed all of the record evidence, I agree with the R.D. that Respondent is the witness with the most at stake in these proceedings and that his testimony and interview statements are marked by numerous implausibilities and internal inconsistencies. *Id.* at 104–06. Before issuance of the OSC, for example, Respondent told law enforcement officers that all documents, including Michigan Automated Prescription System (hereinafter, MAPS) reports, are ''definitely'' scanned into iPatientCare. GX 24, at 10. During the hearing though, Respondent variously testified that (1) his policy is to put the first visit's MAPS report into the medical record, ''but I don't always put them in after that;'' (2) there is no rhyme or reason for why he would or would not put MAPS reports into the medical record; and, (3) if he sees something ''abnormal'' on a MAPS report, he would put it into the medical record as ''standard practice . . . the vast majority of the time.'' Tr. 1442. The differences between Respondent's

[5] Respondent uses iPatientCare for his office's electronic medical records.

[6] Dr. Christensen is the Medical Director at the Substance Abuse Treatment Center at Wayne State School of Medicine (Detroit, Michigan), the Medical Director of Dawn Farm Treatment Center (Ann Arbor, Michigan), the Medical Director at the Michigan Health Professional Recovery Program, and a Clinical Associate Professor in Psychiatry and OB/GYN at Wayne State School of Medicine. Tr. 315.

[7] The R.D. states that the ''utility'' of Dr. Christensen's testimony, as opposed to its credibility, is diminished for a few reasons. R.D., at 53. First, the ''principal issue of hesitation regarding Dr. Christensen's testimony . . . [is] teasing out those portions of his opinions motivated, not by state practice standards, but rather by his own views related to best practices.'' *Id.* at 54. Given the expert testimony in the record, all of the evidence that the parties put in the record concerning the standard of care in Michigan, and the care that counsel took to focus their questioning and argument on Michigan's standard of care, I am confident that this proceeding's record is sufficient for me to make a decision on the OSC's standard of care-related allegations, including OSC paragraph 4(b)(3) and 4(d)(3).

Second, Dr. Christensen is a BCBS consultant and BCBS, as the R.D. notes, is ''motivated, at least in part, by cost concerns related to healthcare fraud'' and is ''motivated, in no small measure, by interests of cost containment.'' *Id.* at 53–54. Yet, regarding this utility concern, Dr. Christensen testified that he ''initially reviewed files on . . . [U/C for BCBS], and then sometime during that time period, the DEA assumed the case, and after that . . . [his] dealings were all with the DEA.'' Tr. 324. Thus, I do not share this ''utility'' concern.

Third, ''some of Dr. Christensen's testimony addressed treatment matters outside the . . . [Controlled Substances Act's] goal of preventing abuse and diversion.'' *Id.* at 54. This third concern goes to Subsys treatment matters that the R.D. suggests are outside the scope of the statute. I agree to the extent that the record evidence and analysis concerning Subsys and Food and Drug Administration requirements are insufficient to answer legal issues raised by some of the Government's Subsys-related allegations. *See, e.g., Gonzales* v. *Oregon,* 546 U.S. 243, 268 (2006) (''Were this argument accepted, he could decide whether any particular drug may be used for any particular purpose, or indeed whether a physician who administers any controversial treatment could be deregistered.''). Thus, those Subsys-related allegations are given no weight and play no role in my public interest assessment or my decisions about the Government's requested relief.

[8] In addition to Respondent's hearing testimony, the record includes transcriptions of parts of two interviews of Respondent that law enforcement conducted. GX 24 and GX 26. GX 24 was offered and admitted without objection. Tr. 37–38. GX 26 was admitted over Respondent's ''context'' objection. *Id.* at 1812–15. I agree with all of the Chief ALJ's pre-hearing and hearing evidentiary rulings and orders.

[9] Transmucosal Immediate Release Fentanyl Risk and Evaluation Mitigation Strategy.

[10] Some testimony fits in more than one category. Respondent also testified on re-direct and the Government's cross-examination.

statements before the OSC was issued and his testimony at the hearing are troubling. For example, the marked change from Respondent's pre-OSC statement (all documents including MAPS reports are ''definitely'' scanned into iPatientCare) to his testimony during the hearing (not all MAPS reports are put in the patient's medical record) does not indicate candor or forthrightness, particularly given Respondent's position that MAPS reports would have helped his case.[11] *See also* R.D., at 104–06. For all of these reasons, I agree with the R.D. that Respondent's testimony must be considered with much caution when his testimony conflicts with credible record evidence. *Id.* at 106.

MA's testimony summarizes the work she did for Respondent. Tr. 1212–64. She corroborated Respondent's testimony that Respondent schedules new patient visits for one hour, patients' second visits for 30 minutes, and ''[a]nything other than that, if they're just coming in for, say, just a refill or they say they're just to refill, it's a five-minute appointment slot.'' [12] *Id.* at 1260. Regarding MAPS, MA stated that ''there should be a MAPS report on every new patient.'' *Id.* at 1242. Having read and analyzed all of the record evidence, I agree with the R.D. that, ''while there was no foundation laid upon her testimony regarding patient volume . . . which could be sufficiently based on actual knowledge to be credited, she did present testimony in other areas that was sufficiently detailed, plausible, and internally consistent to be deemed credible.'' R.D., at 58.

LT testified about the work he did for Respondent's practice. He stated that the method he employed to confirm drug screens was liquid chromatography, mass spectrometry. Tr. 1267. He testified that, according to his manager, every patient sample would be confirmed starting in approximately August 2016. *Id.* at 1273. Based on his experiences visiting an office where Respondent saw patients, LT found an ''unusually high number of patients or people there waiting to see . . . [Respondent].'' *Id.* at 1274. He did not, however, see any illegal activity. *Id.* Having read and analyzed all of the record evidence, I agree with the R.D. that, ''overall, the testimony . . . [LT] presented was sufficiently detailed, plausible, and internally consistent to merit credibility here.'' R.D., at 59.

The topics about which LPN testified included: Appointment scheduling (*e.g.,* Tr. 1301–02, 1330–34, 1336–40); the process of becoming a new patient (*e.g., id.* at 1310–14); tests that Respondent might order for a new patient (*e.g., id.* at 1302–03, 1320–22); a new patient's initial visit with Respondent (*e.g., id.* at 1315–20, 1322–23); and diversion-related issues (*e.g., id.* at 1304–10, 1325–29, 1330). Having read and analyzed all of the record evidence, I agree with the R.D. that LPN and Respondent ''shared a professional relationship spanning two and a half decades, and the testimony . . . [LPN] provided regarding the practices prevalent at . . . [Respondent's office] inextricably reflect on her own level of professionalism, and must be viewed through that prism.'' R.D., at 62. In addition, the meaning of some of LPN's testimony is unclear. I find that lack of clarity, whether due to common semantic vagueness, imprecision by the questioner and the witness, or something else, diminishes the value of LPN's testimony. Nevertheless, areas of LPN's testimony are ''sufficiently detailed, plausible, and internally consistent to be deemed generally credible.'' *Id.*

The subject areas of OM's testimony included: Her work as Respondent's office manager (*e.g.,* Tr. 1342–43, 1344–46, 1382, 1385–86); the genesis of the lab in Respondent's office (*e.g., id.* at 1346–50, 1363–64); office configuration and use for patient visits (*id.* at 1350–51); office policies and employee training (*e.g., id.* at 1352–53, 1359–62, 1367–70); controlled substances in Respondent's office, including a controlled substances inventory (*e.g., id.* at 1355–59, 1379–83, 1386–87); the process of becoming a new patient (*e.g., id.* at 1360–61, 1364–65, 1370–71); diversion-related issues (*e.g., id.* at 1362–63, 1376–79); and a new patient's initial visit with Respondent (*e.g., id.* at 1365–67, 1370, 1387). Having read and analyzed all of the record evidence, I agree with the R.D. that, ''[a]s an employee of the Respondent's and the . . . office manager, . . . [OM] has a significant stake in the outcome of the proceedings.'' R.D., at 65. I also agree that ''inasmuch as the manner in which . . . [Respondent's] office is managed and run perforce reflects on her own level of professionalism, . . . [OM] can hardly be viewed in the same light as an independent evaluator of office procedures.'' *Id.* In addition, portions of OM's testimony are internally inconsistent. *Compare* Tr. 1359 (OM's testimony on direct examination that she has not seen the controlled substances inventory since the execution of the search warrant and that she does not ''know what happened to it''), *with id.* at 1386–87 (OM's testimony on cross-examination that she saw the inventory after execution of the search warrant). Otherwise, I agree with the R.D. that OM's hearing testimony, overall, is ''sufficiently detailed, plausible, and internally consistent to be deemed generally credible.'' R.D., at 65.

Dr. Webster was offered and accepted as Respondent's expert ''in the . . . [subject] of pain medicine and addiction medicine, . . . the prescribing of controlled substances in the State of Michigan, . . . [including] transmucosal Fentanyl, . . . [and] overall for the prescribing of pain medicine in Michigan.'' Tr. 986. Dr. Webster is an anesthesiologist, who is Board certified in anesthesia, pain medicine, and addiction medicine. *Id.* at 966. When he practiced medicine, he was not located in Michigan; he is not and never has been licensed to practice medicine in Michigan. *Id.* at 986–87. Dr. Webster reviewed Respondent Exhibit (hereinafter, RE–) C to form his opinion of the standard of care in Michigan.[13] *Id.* at 987–90. He also reviewed ''a summary of records of the six subjects . . . but not the videotapes'' of the U/C visits.[14] *Id.* at 1121.

[11] At the hearing, the Government moved GX 27 for identification into evidence. I agree with the Chief ALJ's exclusion of the document due to an inadequate foundation. Tr. 1816–23. Further, in connection with the colloquy during this portion of the hearing, I note my disagreement with Respondent's suggestion that law enforcement, during search warrant execution, mishandled Respondent's records thereby impeding Respondent's defense, or that the Government is the reason Respondent does not have access to MAPS reports that ''would've been very helpful in this case to me.'' Tr. 544 (Dr. Christensen's testimony that the history of present illness or the interval history should include information about relevant past treatments or treatment failures or medications); *id.* at 551 (Dr. Christensen's testimony that one medical decision-making area lists all of the patient's diagnoses); *id.* at 157 (MANTIS Det's testimony that Respondent need not use his personal computer to access his patients' medical records on iPatientCare because those records are on the internet, not his personal computer); *id.* at 895, 899–900, 914 (Monroe Det's testimony that he learned from Respondent's staff that patient records are kept in the cloud and that iPatientCare searched for and provided law enforcement with responsive records).

[12] *Accord* Tr. 948–49 (Respondent's testimony); 1301–02 (LPN's testimony regarding new patient visits and second visits); *cf. id.* at 1366 (OM's testimony that new patients' first visits with Respondent last ''a long time, an hour, hour and a half''); *but see id.* at 1302 (LPN's testimony that the normal allocation of time for visits by patients who are stable is ten to 15 minutes).

[13] RE–C is the Michigan Guidelines for the Use of Controlled Substances for the Treatment of Pain (hereinafter, Michigan Guidelines).

[14] *See* R.D., at 83 (''The (presumably tactical) decision to avoid reviewing the video footage of . . . [the U/C visits], when viewed in context with the balance of his testimony[,] strikes as a technique to avoid explaining events and dynamics that may not lend themselves to defensible explanations.''). I agree.

Dr. Webster repeatedly answered questions about the applicable standard of care by referencing what doctors actually do instead of referencing the actual provisions of the standard of care. For example, when asked about the standard of care in Michigan regarding a pain patient's first visit and ordering a MAPS report, Dr. Webster stated that ''there is no standard . . . [b]ecause, actually, today there's recent publications that show that only now, after a lot of education and recommendations, about 50 percent of physicians order them because they're afraid.'' [15] *Id.* at 1006. By way of an additional example, when asked whether prescribing a benzodiazepine, such as Xanax, along with an opioid is a ''departure from the standard of care,'' Dr. Webster answered that it is not, again referencing what doctors actually do, while opining that the practice is unsafe and should be avoided: ''Unfortunately, it's common. . . . There's still about 30 percent of the people who are taking opioids have a Benzodiazepine onboard, but it's unsafe . . . [because] the dose at which an opioid can cause respiratory depression is much lower if a Benzodiazepine is onboard.'' *Id.* at 1080–81. By way of a further example, when asked if the standard of care requires a doctor to have a discussion with a patient whose drug screen tests negative for a prescribed controlled substance, Dr. Webster answered, ''[N]o. . . . It's what's done most often.'' *Id.* at 1111. On cross examination, Dr. Webster admitted his view is that ''what is good medicine is a higher standard than what is the standard of care.'' *Id.* at 1163.

According to Dr. Webster, a physician is ''always looking at aberrant behavior.'' *Id.* at 1150. He explained that this is different from ''checking'' for aberrant behavior. *Id.* He stated, ''[I]t's passive. That's passive because it's not an active thing you do. It's passive. It happens.'' *Id.* When asked whether there is a point when such aberrant behavior imposes a duty on a physician to do something, Dr. Webster responded, ''Oh, yes. I think if you *know* that a patient has diverted, you *know* a patient has been injecting intravenously, manipulating their medicines, I think you have to intervene.'' [16] *Id.* at 1151 [emphasis added].

Having read and analyzed all of the record evidence, I agree with the R.D. that Dr. Webster's testimony is ''punctuated with the variety of vagueness and equivocation that presented the unmistakable appearance of an expert unwilling to draw any standard, for fear of conflicting with anything the Respondent may have done or not done in his prescribing.'' R.D., at 83. I also agree with the R.D. that, ''to the extent that . . . [Dr. Webster] actually believed that a prescriber-registrant had even the slightest duty to minimize diversion, that conviction could not be discerned from even the closest reading of his testimony.'' *Id.* When Dr. Webster's testimony conflicts with other persuasive expert testimony, I do not credit Dr. Webster's testimony. *Id.* at 84; *see also id.* at 65–84.

Michigan Physicians' Standard of Care

According to the Controlled Substances Act (hereinafter, CSA), ''Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally . . . to . . . distribute, . . . dispense, or possess with intent to . . . distribute[ ] or dispense, a controlled substance.'' 21 U.S.C. 841(a)(1). The CSA's implementing regulations state that a lawful controlled substance order or prescription is one that is ''issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a).

The OSC is addressed to Respondent at his registered locations and medical practice in Michigan. Therefore, I also evaluate Respondent's actions according to Michigan's laws and standard of care.[17] The State of Michigan, similar to the CSA, requires that a ''practitioner . . . shall not dispense, prescribe, or administer a controlled substance for other than legitimate and professionally recognized therapeutic or scientific purposes or outside the scope of practice of the practitioner.'' Mich. Comp. Laws § 333.7401(1) (Westlaw, current through P.A. 2019, No. 18 of the 2019 Regular Session, 100th Legislature). Respondent offered into evidence the Michigan Guidelines, RE–C, and the Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain that was adopted as policy by the House of Delegates of the Federation of State Medical Boards in July 2013 (hereinafter, FSMB Model Policy), RE–D. Both documents were admitted into evidence without objection. Respondent used these documents to present his case, including during examination and cross-examination of his and the Government's expert witness. I find that the provisions of the Michigan Guidelines and the FSMB Model Policy are consistent with each other.

The intent of the Michigan Guidelines is to ''communicate what the Boards [of Medicine and Osteopathic Medicine & Surgery (hereinafter, Boards)] consider to be within the boundaries of professional practice.'' Michigan Guidelines, at 2. According to Section I of the Michigan Guidelines, the Preamble, the ''medical management of pain should be based on current knowledge and research and include the use of both pharmacologic and non-pharmacologic modalities.'' *Id.* at 1. The Preamble also states, ''Pain should be assessed and treated promptly, and the quantity and frequency of doses should be adjusted according to the intensity and duration of the pain.'' *Id.* It further states, ''Physicians should be diligent in preventing the diversion of drugs for illegitimate purposes.'' *Id.*

The Preamble specifically addresses prescribing and dispensing standards, indicating that the Boards will consider prescribing and dispensing to be ''for a legitimate medical purpose if based on accepted scientific knowledge of the treatment of pain or if based on sound clinical grounds.'' *Id.* at 2. According to the Preamble, ''All such prescribing must be based on clear documentation of unrelieved pain and in compliance with applicable state or federal law.'' *Id.* The Preamble advises that the Boards will evaluate prescribing for pain ''on an individual basis'' and ''will not take disciplinary action against a physician for failing to adhere strictly to the provisions of these guidelines, if good cause is shown for such deviation.'' *Id.* Instead, according to the Preamble, the physician's conduct ''will be evaluated to a great extent by the treatment outcome, taking into account whether the drug used is medically and/or pharmacologically recognized to be appropriate for the diagnosis, the patient's individual needs—including any improvement in functioning—and recognizing that some types of pain cannot be completely relieved.'' *Id.* The stated goal is to ''control the patient's pain for its duration while effectively addressing other aspects of the patient's functioning, including physical, psychological, social and work-related factors'' and, thus, the Boards ''will judge the validity of prescribing based on the physician's treatment of the patient and on available documentation,

[15] Dr. Webster explained that ''doctors are afraid of having data in their chart that could be used against them.'' Tr. 1007.

[16] When asked, ''And when you say you know the patient's been injecting, what do you—can you describe how that happens in patients,'' Dr. Webster responded, ''Yeah. They take their Percocet and grind it up, put it in a solution and inject it in their vein.'' Tr. 1151–52.

[17] *See Gonzales* v. *Oregon, supra,* 546 U.S. at 269–71.

rather than on the quantity and chronicity of prescribing.'' *Id.*

Section II of the Michigan Guidelines, the ''Guidelines,'' is used to ''evaluat[e] the use of controlled substances for pain control.'' *Id.* at 3. First, the Guidelines state that a ''complete medical history and physical examination must be conducted and documented in the medical record.'' *Id.* The Guidelines specifically address the Boards' expectations regarding documentation.

> The medical record should document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, and history of substance abuse. The medical record also should document the presence of one or more recognized medical indications for the use of a controlled substance.

Id.

Second, the Guidelines address the content of the written treatment plan, stating that it ''should state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and should indicate if any further diagnostic evaluations or other treatments are planned.'' *Id.* This section states that ''[a]fter treatment begins, the physician should adjust drug therapy to the individual medical needs of each patient.'' *Id.*

Third, the next section of the Guidelines addresses informed consent and agreement for treatment. It states, ''The physician should discuss the risks and benefits of the use of controlled substances with the patient. . . . The patient should receive prescriptions from one physician and one pharmacy where possible.'' *Id.* This section suggests that the physician may use a written agreement between the physician and the patient ''[i]f the patient is determined to be at high risk for medication abuse or have a history of substance abuse.'' *Id.* According to the Guidelines, the written agreement's patient responsibilities include ''urine/serum medication levels screening when requested; number and frequency of all prescription refills; and, reasons for which drug therapy may be discontinued (*i.e.,* violation of agreement).'' *Id.*

Fourth, the Guidelines state that the physician, ''[a]t reasonable intervals based on the individual circumstances of the patient, . . . should review the course of treatment and any new information about the etiology of the pain.'' *Id.* at 4. This ''Periodic Review'' section of the Guidelines states that ''[c]ontinuation or modification of therapy should depend on the physician's evaluation of progress toward stated treatment objectives, such as improvement in patient's pain intensity and improved physical and/or psychosocial function, *i.e.,* ability to work, . . . activities of daily living and quality of social life.'' *Id.* It also states that ''the physician should reevaluate the appropriateness of continued treatment . . . [i]f treatment goals are not being achieved . . . despite medication adjustments.'' *Id.* The ''Periodic Review'' section also states, ''The physician should monitor patient compliance in medication usage and related treatment plans.'' *Id.*

Fifth, the Guidelines state, ''The physician should be willing to refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives.'' *Id.* This ''Consultation'' section also states, ''Special attention should be given to those pain patients who are at risk for misusing their medications and those whose living arrangement pose[s] a risk for medication misuse or diversion.'' *Id.* Here, the Guidelines specifically warn, ''The management of pain in patients with a history of substance abuse . . . may require extra care, monitoring, documentation and consultation with or referral to an expert in the management of such patients.'' [18] *Id.*

Sixth, the next section of the Guidelines concerns medical records and states, ''The physician should keep accurate and complete records to include the medical history and physical examination; diagnostic, therapeutic and laboratory results; evaluations and consultations; treatment objectives; discussion of risks and benefits; treatments; medications (including date, type, dosage and quantity prescribed); instructions and agreements; and, periodic reviews.'' *Id.* This section also states that these medical records ''should remain current and be maintained in an accessible manner and readily available for review.'' *Id.*

Seventh, the last section of the Guidelines reminds physicians that they must be licensed in Michigan to prescribe or dispense controlled substances, and that they must comply with applicable Federal and State regulations. *Id.* at 5. This section refers physicians to the ''Physicians Manual of the U.S. Drug Enforcement Administration and . . . any relevant documents issued by the state medical board . . . for specific rules governing controlled substances as well as applicable state regulations.'' *Id.*

The stated goal of the FSMB Model Policy is to ''provide state medical boards with an updated guideline for assessing physicians' management of pain, so as to determine whether opioid analgesics are used in a manner that is both medically appropriate and in compliance with applicable state and federal laws and regulations.'' FSMB Model Policy, at 3. It ''emphasizes the professional and ethical responsibility of physicians to appropriately assess and manage patients' pain, assess the relative level of risk for misuse and addiction, monitor for aberrant behaviors and intervene as appropriate.'' *Id.* at 1. It states that ''adverse outcomes associated with the misuse, abuse and diversion of prescription opioids have increased dramatically'' and that ''[p]hysicians and other health care professionals have contributed—often inadvertently—to these increases.'' *Id.* at 2 (reference omitted). Regarding ''the criminal patient, whose primary purpose is to obtain drugs for resale,'' the FSMB Model Policy advises that, ''[p]hysicians' attention to patient assessment and the routine use of state prescription drug monitoring programs (PDMPs), where available, have been cited as effective ways to identify individuals who engage in such criminal activities.'' *Id.* at 3 (references omitted). The FSMB Model Policy ''highly'' recommends ''consulting the state's PDMP before prescribing opioids for pain and during ongoing use.'' *Id.* at 10.

The FSMB Model Policy ''makes it clear'' that ''inappropriate management of pain . . . [is] a departure from accepted best clinical practices.'' *Id.* at 3. It discusses six ways that pain is not managed appropriately. First, there is inadequate attention to an initial assessment to determine if opioids are clinically indicated and to determine the risks associated with their use in a particular patient. *Id.* Second, monitoring during the use of potentially abusable medications is inadequate. *Id.* Third, education for the patient about the risks of opioid therapy and the patient's informed consent to opioid therapy are inadequate. *Id.* at 4. Fourth, unjustified dose escalation without adequate attention to risks, such as concurrent alcohol use, or to alternative treatment is a departure from accepted best clinical practices. *Id.* Fifth, relying excessively on opioids, particularly high dose opioids for chronic pain management, and continuing opioid therapy that does not meet clear and objective outcomes are departures from

[18] ''Substance abuse,'' according to the Michigan Guidelines, is ''the use of any substance(s) for non-therapeutic purposes or use of medication for purposes other than those for which it is prescribed.'' Michigan Guidelines, at 6.

accepted best clinical practices. *Id.* Sixth, not using available risk mitigation tools, such as the state PDMP, in advance of prescribing opioids and during ongoing monitoring is a departure from accepted best clinical practices. *Id.*

The Preamble of the FSMB Model Policy defines ''inappropriate treatment of pain'' to include non-treatment, inadequate treatment, overtreatment, and continued use of ineffective treatments. *Id.* at 5. The use of opioids for pain management is considered to be for a legitimate medical purpose when the use is based on sound clinical judgment and current best clinical practices, is appropriately documented, and demonstrably benefits the patient. *Id.* The use of opioid therapy for pain management is within the usual course of professional practice when a legitimate physician-patient relationship exists, the use is appropriate for the identified diagnosis, there is careful follow-up monitoring of the patient's response to treatment and the patient's safe use of the medication, the opioid therapy is adjusted when needed, and appropriate referrals are documented. *Id.* Physicians are expected to incorporate safeguards into their practices to minimize the risk of misuse and diversion of controlled substances. *Id.* at 6.

The goal of a physician treating a patient in pain is to manage the pain while effectively addressing the patient's functioning and mitigating the risk of misuse, abuse, diversion, and overdose. *Id.* The validity of the physician's treatment is judged on the basis of available documentation, not solely on the quantity and duration of medication administered. *Id.*

The FSMB Model Policy Guidelines include criteria for evaluating a physician's management of a patient's pain. The physician ''must understand the relevant pharmacologic and clinical issues in the use of . . . [opioid] analgesics, and carefully structure a treatment plan that reflects the particular benefits and risks of opioid use'' for the patient.[19] *Id.* The patient's medical record ''should document the presence of one or more recognized medical indications for prescribing an opioid analgesic and reflect an appropriately detailed patient evaluation.'' *Id.* (references omitted). The assessment of the patient's pain typically includes ''the nature and intensity of the pain, past and current treatments for the pain, any underlying or co-occurring disorders and conditions, and the effect of the pain on the patient's physical and psychological functioning.'' *Id.* at 7 (reference omitted). For every patient, ''the initial work-up should include a systems review and relevant physical examination, as well as laboratory investigations as indicated.'' *Id.* (references omitted).

According to the FSMB Model Policy, ''Assessment of the patient's personal and family history of alcohol or drug abuse and relative risk for medication misuse or abuse also should be part of the initial evaluation, and ideally should be completed prior to a decision as to whether to prescribe opioid analgesics.''[20] *Id.* (references omitted). The reasons for these criteria include that ''[p]atients who have a history of substance use disorder (including alcohol) are at elevated risk for failure of opioid analgesic therapy to achieve the goals of improved comfort and function, and also are at high risk for experiencing harm from this therapy.'' *Id.* (references omitted). Further, patients with an ''active substance use disorder should not receive opioid therapy until they are established in a treatment/recovery program or alternatives are established such as co-management with an addiction professional.'' *Id.* (reference omitted). Here, again, the FSMB Model Policy states that the state PDMP ''should be consulted to determine whether the patient is receiving prescriptions from any other physicians'' and that the PDMP results ''should be documented in the patient record.'' *Id.* at 7–8 (reference omitted).

The FSMB Model Policy states that opioid therapy ''should be presented to the patient as a therapeutic trial or test for a defined period,'' during which ''progress will be carefully monitored for both benefit and harm.'' *Id.* at 9 (reference omitted). Monitoring ''should'' continue at each visit ''by assessing what have been called the '5As' of chronic pain management.''[21] *Id.* (references omitted). The continuation, modification, or termination of opioid therapy ''should be contingent on the physician's evaluation of (1) evidence of the patient's progress toward treatment objectives and (2) the absence of substantial risks or adverse events, such as overdose or diversion.'' *Id.* at 9–10 (references omitted).

The FSMB Model Policy suggests that ''[p]eriodic drug testing may be useful in monitoring adherence to the treatment plan, as well as in detecting the use of non-prescribed drugs.'' *Id.* at 10 (references omitted). According to the FSMB Model Policy, ''[t]est results that suggest opioid misuse should be discussed with the patient . . . [and b]oth the test results and subsequent discussion with the patient should be documented in the medical record.''[22] *Id.* (reference omitted). When drug tests show the presence of illicit or unprescribed drugs, prescriber action is required. *Id.* at 11. If the patient does not receive a benefit, including demonstrated functional improvement, from opioid therapy, the treatment ''should not continue.'' *Id.* at 12.

The FSMB Model Policy emphasizes that ''the current state of medical knowledge and medical therapies, including opioid analgesics, does not provide for complete elimination of chronic pain in most cases.'' *Id.* at 2 (references omitted). Yet, ''[i]nappropriate treatment . . . can result from a mistaken belief on the part of patients and their physicians that complete eradication of pain is an attainable goal, and one that can be achieved without disabling adverse effects.'' *Id.* at 3.

The FSMB Model Policy states, ''Every physician who treats patients for chronic pain must maintain accurate and complete medical records.'' *Id.* at 12. It provides a list of ''[i]nformation that should appear in the medical record.''[23] *Id.* (references omitted). Most

[19] ''The treatment plan should contain information supporting the selection of therapies, both pharmacologic (including medications other than opioids) and nonpharmacologic. It also should specify the objectives that will be used to evaluate treatment progress, such as relief of pain and improved physical and psychosocial function.'' FSMB Model Policy, at 8 (references omitted).

[20] ''This can be done through a careful clinical interview . . . . Information provided by the patient is a necessary but insufficient part of the evaluation process. Reports of previous evaluations and treatments should be confirmed by obtaining records from other providers, if possible. Patients have occasionally provided fraudulent records, so if there is any reason to question the truthfulness of a patient's report, it is best to request records directly from the other providers. '' FSMB Model Policy, at 7 (references omitted).

[21] ''[T]hese involve a determination of whether the patient is experiencing a reduction in pain (Analgesia), has demonstrated an improvement in level of function (Activity), whether there are significant Adverse effects, whether there is evidence of Aberrant substance-related behaviors, and mood of the individual (Affect).'' FSMB Model Policy, at 9 (references omitted).

[22] According to the FSMB Model Policy, ''Periodic pill counting is also a useful strategy to confirm medication adherence and to minimize diversion.'' FSMB Model Policy, at 10.

[23] The FSMB Model Policy list of information that should appear in the medical record includes: (1) Copies of the signed informed consent and treatment agreement; (2) the patient's medical history; (3) results of the physical examination and all laboratory tests; (4) results of the risk assessment, including results of any screening

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notably, the list includes ''[a]ny other information used to support the initiation, continuation, revision, or termination of treatment and the steps taken in response to any aberrant medication use behaviors.'' *Id.* (references omitted). According to the FSMB Model Policy, ''[r]ecords should be up-to-date and maintained in an accessible manner so as to be readily available for review.'' *Id.* (reference omitted). The FSMB Model Policy states that, ''Good records demonstrate that a service was provided . . . [and] establish that the service provided was medically necessary. . . . [T]horough records protect the physician as well as the patient.'' *Id.* (references omitted).

Having read and analyzed all of the record evidence, I find that Dr. Christensen's testimony concerning a Michigan physician's standard of care when prescribing controlled substances accurately applies the Michigan Guidelines.[24] As already discussed, the credit I afford the testimony of Dr. Webster and Respondent is limited. As such, I afford Dr. Christensen's Michigan standard of care-related testimony controlling weight in this proceeding.

Allegation That Respondent Lacks the Requisite State Authority To Hold a DEA Certificate of Registration

On August 3, 2017, the Michigan Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing (hereinafter, MBPL) summarily suspended Respondent's Michigan license to practice medicine based on a finding that the public health, safety, or welfare required emergency action.[25] Notice (Attachment A, Michigan Department of Licensing and Regulatory Affairs Bureau of Professional Licensing Board of Medicine Disciplinary Subcommittee Order of Summary Suspension), at 1. The MBPL further determined that, pursuant to Michigan law, Respondent's Michigan controlled substance license is ''automatically void'' because his license to practice medicine is suspended. *Id.* (citing Mich. Comp. Laws § 333.7311(6) (Westlaw, current through P.A. 2019, No. 18 of the 2019 Regular Session, 100th Legislature)). Respondent entered into a Joint Stipulation with the Government in which he stipulated to the summary suspension of his medical license effective August 4, 2017. ALJX 30, at 1.

According to the MBPL Administrative Complaint issued the same day as the summary suspension, Respondent ''ranked among Michigan's highest-volume prescribers of commonly abused and diverted controlled substances in 2015 and during the first three quarters of 2016.'' Notice (Attachment A, Administrative Complaint), at 3 (citing MAPS data). The Administrative Complaint alleges that, based on MAPS data for the same time period, Respondent prescribed about 26% of all hydrocodone combination products, about 19% of all oxycodone combination products, and about 65% of all strengths of hydrocodone combination products, oxycodone combination products, buprenorphine/naloxone, and methadone. *Id.* On average, according to the Administrative Complaint, Respondent authorized more than 89 controlled substance prescriptions for every workday between January 1, 2015 and September 30, 2016. *Id.*

The Administrative Complaint further alleges that the investigation of Respondent, including the analysis of the medical records of ten of Respondent's patients, ''discovered . . . deficiencies consistently across files.'' *Id.* at 4. The identified deficiencies included: ''Unnecessarily voluminous'' patient files due to ''cut-and-pasted segments repeated from note to note;'' ''poorly organized and frequently unintelligible'' patient notes; descriptions of the patient's pain problem that were not ''adequate to permit informed prescription decision-making;'' the use of the word ''guarded'' for each patient's prognosis, ''which suggests Respondent made no actual consideration of individual patient prognosis;'' negative symptoms usually noted for the musculoskeletal element of the review of systems, despite the fact that each patient was apparently seen for a chronic pain diagnosis; ''failure to document consideration of alternative treatments to opioid prescribing, except for pain blocks Respondent himself performed and for which he billed;'' no ''treatment records from previous physicians . . . [or] documentation of any contact with other health care providers (except for imaging study reports);'' no patient narcotic agreements; multiple dates of service with ''no clinical information at all;'' no ''document[ed] responses to evidence of abuse or diversion of controlled substances;'' the prescribing of high addiction-potential controlled substances without documenting that Respondent ''ask[ed] patients if they exhausted their previously prescribed supply;'' and, the routine prescribing of ''high opioid dosages, consistently exceeding 50 MMEs, and in some cases exceeding 100 MMEs, without adequate explanation for the high level of narcotic dosage.''[26] *Id.* at 4–5. The MBPL expert also noted that Respondent's patient files, while ''occasionally stating that MAPS records were reviewed, . . . often do not contain any MAPS reports.'' *Id.* at 5. The Administrative Complaint also includes more than three pages listing the deficiencies the expert discovered in the individual medical files Respondent produced. *Id.* at 5–9.

Further, according to Michigan's online records, of which I take official notice, Respondent's medical license is currently ''Lapsed—Suspended.''[27] Michigan Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Bureau of Community and Health Systems website, *https://www.michigan.gov/lara* (last visited September 25, 2019). As such, I find that Respondent is still not authorized to practice medicine in Michigan.

Accordingly, I find that Respondent currently is without authority to engage in the practice of medicine or to handle controlled substances in Michigan, the State in which he is registered.

Allegation That Respondent Issued Prescriptions for Controlled Substances Outside the Usual Course of the Professional Practice

Having read and analyzed all of the record evidence, I agree with the R.D.'s conclusion and find that the record contains substantial evidence that Respondent prescribed controlled substances outside of the usual course

instruments used; (5) a description of the treatments provided; (6) instructions to the patient, including discussions of risks and benefits; (7) results of ongoing monitoring of patient progress (or lack of progress) in terms of pain management and functional improvement; and, (8) notes on evaluations by, and consultations with, specialists. *Id.* at 12.

[24] Further, I find that Dr. Christensen's testimony is also consistent with the provisions of the FSMB Model Policy.

[25] The MBPL emergency summary suspension was effective the next day, August 4, 2017, upon service of the Summary Suspension Order on Respondent. Notice, at 1; ALJX 30, at 1.

[26] MME means morphine milligram equivalent.

[27] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Respondent may dispute my finding by filing a properly supported motion for reconsideration within 15 calendar days of the date of this Order. Any such motion shall be filed with the Office of the Administrator and a copy shall be served on the Government. In the event Respondent files a motion, the Government shall have 15 calendar days to file a response.

of the professional practice in Michigan. R.D., at 124. Respondent did not follow up on MAPS reports indicating an abnormality. *See, e.g.,* Tr. 417–18, 535–38; Michigan Guidelines, at 1; FSMB Model Policy, at 1, 3, 6, 10. Despite his noting a diagnosis of ''opiate dependence continuous,'' Respondent failed to document in the patient's medical records either a referral or an evaluation for an addictive disorder, as the standard of care mandates. *See, e.g.,* Tr. 418–21, 424–25; Michigan Guidelines, at 4; FSMB Model Policy, at 7. When Respondent switched a patient's diagnosis from ''opiate dependence continuous'' to ''long-term use'' of medications, and when he changed a controlled substance prescription he issued to a patient, Respondent did not document his decision making or any of the reasons for the change, as called for by the applicable standard of care. *See, e.g.,* Tr. 427–28, 443–44, 478–79; Michigan Guidelines, at 2, 4; FSMB Model Policy, at 6. After receiving the results of abnormal urine drug tests, Respondent did not document any discussion of those results with the patient, as the applicable standard of care mandates. *See, e.g.,* Tr. 429, 452–53, 458–61, 480–81, 482–83, 488–89, 498–99, 515–16; Michigan Guidelines, at 1–4; FSMB Model Policy, at 1, 6, 9–12. Despite abnormal urine drug tests, Respondent re-issued controlled substance prescriptions without sufficiently documenting that he had appropriately addressed the abnormalities. *See, e.g.,* Tr. 444, 447–50, 459, 469–72, 477, 488–89, 490–92, 515–16, 582–84; Michigan Guidelines, at 1, 3, 4; FSMB Model Policy, at 1, 6, 9–11.

Further, despite the appearance in a patient's urine drug test of controlled substances that Respondent had not prescribed, or illegal substances, Respondent continued to issue controlled substance prescriptions and did not put adequate documentation of his decision making in the medical records. *See, e.g.,* Tr. 463–64, 467, 561–70; Michigan Guidelines, at 1–2, 4; FSMB Model Policy, at 1, 6–7, 9–11; *see also* Tr. 494–95, 572–76, 590. Respondent prescribed an ultra-rapid schedule II controlled substance to a patient for whom he had not prescribed sufficient long-acting medication to control the patient's baseline pain. *See, e.g.,* Tr. 430–33, 443, 445; Michigan Guidelines, at 1–4; FSMB Model Policy, at 4–6. Respondent issued a prescription for double the strength of an ultra-rapid schedule II medication without documenting the change or decision making. *See, e.g.,* Tr. 446; Michigan Guidelines, at 2–4; FSMB Model Policy, at 5–6. Respondent's prescribing violated the standard of care relating to patient safety. *See, e.g.,* Tr. 446, 521–31, 578–80, 587; Michigan Guidelines, at 1, 3–4; FSMB Model Policy, at 5, 9–12. Respondent re-prescribed the same controlled substance prescriptions to a patient even though the controlled substances lacked efficacy as evidenced by the patient's complaint of uncontrolled pain. *See, e.g.,* Tr. 438, 439, 443, 445; Michigan Guidelines, at 1, 3–4; FSMB Model Policy, at 5–6, 9–12; *see also* Tr. 366–67.

While the record includes statements from Respondent and his staff about the protocols Respondent purportedly follows to ensure that the issuance of a controlled substance prescription is warranted, the record evidence, most vividly the video-related evidence, shows Respondent acting contrary to the so-called protocols and authorizing unwarranted controlled substance prescriptions. For example, U/C repeatedly states he feels ''stiff'' or has ''stiffness'' when Respondent and his staff ask him about being in ''pain.'' U/C Visits Transcript, at 19–22, 23–25. Regardless, Respondent issues controlled substance prescriptions to U/C that are not justified by test results or by U/C's symptoms.[28] *Id.* at 25 (''You know you gotta get your testing done and all that. Your urine drug screen.''); *see also id.* at 48–49; Tr. 370.

The U/C visits also document that Respondent authorized the issuance of controlled substance prescriptions to U/C without appropriately addressing abnormal drug screens. U/C Visits Transcript, at 64–65 (authorizing prescriptions for Norco (schedule II) and Lyrica (schedule V) without addressing the abnormal drug screen from the prior visit). At a subsequent visit, Respondent authorized the same two controlled substance prescriptions for U/C after verbally noting an abnormal drug screen but not implementing the follow-up mandated by the applicable standard of care. *Id.* at 77–80 (''Hold on one second. Um, no hydrocodone. That's a problem. Ok. We're gonna have to see him . . . in one week.''). According to Dr. Christensen's testimony about meeting the standard of care in Michigan, ''an abnormal urine drug screen should be addressed immediately, either with referral or evaluation, and definitely starting off with an interview.'' Tr. 402. Dr. Christensen's opinion is that Respondent's above-quoted statements do not meet the interview requirement of the Michigan standard of care. *Id.*

> Since there are alternate explanations for an abnormal drug screen the initial evaluation should include asking the patient . . . how are you taking it, are you taking it, are you taking too little, too much, and then going from that point on. . . . I would include either referral or evaluation, depending on who the prescriber was. And this appears almost certainly to be a drug screen. So if you have a negative result for a prescribed drug, you should also send out for confirmation. I wasn't able to find any confirmation for that date. And then the patient should be asked to return at an early date for another visit, which was done.

Id. at 402–03.

Further, Respondent authorized controlled substance prescriptions for U/C without addressing any of U/C's statements about his use of alcohol. U/C Visits Transcript, at 12, 18, 22, 43, 63, 93. Dr. Christensen, addressing the standard of care for prescribing controlled substances, explained that alcohol use indicates a possible addictive or substance-use disorder and, when mixed with an opioid, could result in death.

> [Alcohol use is] one of the indications of possible addictive disorder or substance use disorder. And if you're evaluating a patient for pain, you need to take that into account if you're attempting to make a legitimate diagnosis or write a legitimate prescription. And if you decide that it's a legitimate prescription, it is extremely dangerous to mix alcohol and opioids. . . . Because both of them act upon the brain's respiratory center, and when they are combined together, they are worse than either one alone. It's called a super-additive effect, and the patient is more likely to have respiratory arrests, overdose, and death.

Tr. 369.

While it is clear that Respondent noticed U/C's drug-seeking behavior, it is also clear that Respondent failed to address that behavior as the applicable standard of care requires. *Id.* at 385–87.[29] Instead, Respondent reacted by

[28] According to Dr. Christensen's testimony about the standard of care for prescribing controlled substances:

> Stiffness is not the same complaint as pain. Stiffness can be either due to muscle contractions, to a joint disorder, to deconditioning, to an underlying immune disorder. But it is not a complaint of pain. It is not an indication for opioids. . . . [A] non-pharmacologic treatment would initially be physical therapy, hydrotherapy, exercise programs, psychological programs, mindfulness programs. And pharmacologic treatment typically includes Tylenol, which is acetaminophen, non-steroidals. And if there is a flare, if somebody is having an usually [sic] difficult time, you can add for a short period of time what we call a muscle relaxer, which is a centrally acting, sedating medication that typically works for about a week.

Tr. 367, 370.

[29] According to Dr. Christensen:

> Requesting opiates without a confirmed diagnosis is concerning, and requesting opiates by name is also concerning . . . [because it is] consistent with

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telling U/C, ''You look like an undercover agent to me right now'' and asking him, ''Are you trying to trap me? All right now, we've been through this with the cops.'' U/C Visits Transcript, at 25.[30] The facts encapsulate the breadth of Respondent's departure from the applicable standard of care: Respondent undoubtedly identified U/C's drug-seeking behavior; responded immediately and solely out of his self-interest to protect himself from law enforcement detection; ignored the standard of care ramifications of the drug-seeking behavior; and, ultimately issued controlled substance prescriptions to U/C.

In sum, based on all of the evidence in the record, I find substantial evidence that Respondent prescribed controlled substances outside of the usual course of the professional practice in Michigan.

Allegation That Respondent Unlawfully Possessed Controlled Substances

Respondent admits that he stored controlled substances previously prescribed to patients and controlled substance samples in his office at North Macomb Street and his residence. Tr. 1486–87, 1490–91, 1719–28. There is no evidence in the record that Respondent is registered as a reverse distributor or is authorized in any way to possess these controlled substances. Thus, I agree with the R.D. and find that the record contains uncontradicted evidence that Respondent possessed large quantities of controlled substances in his office at North Macomb Street and his residence without the authority to do so. R.D., at 117.

Recordkeeping Allegations

According to Respondent's testimony, he maintained at his Stewart Road office, and still possesses, an inventory of controlled substances that he ''can introduce . . . any time that you wish.'' Tr. 1732; *see also* Tr. 1729–32. I do not credit Respondent's testimony due to the fact that he did not offer any inventory into evidence at any time during the proceeding. *See also* R.D., at 105 (''In view of the level of professional exposure attendant upon the potential loss of his DEA registration, the Respondent's account that exculpatory inventories and logs laid motionless in his office while proceedings were initiated and conducted is simply not believable.''). Also according to Respondent's own testimony, he transferred controlled substances between his two offices and did not document the transfers. Tr. 1733. Thus, I agree with the R.D. and find that there is substantial evidence in the record that Respondent did not maintain the required inventory of controlled substances and did not record his transfer of controlled substances. R.D., at 117–18.

Discussion

Allegation That Respondent Lacks the Requisite State Authority To Hold a DEA Certificate of Registration

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the CSA ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71,371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27,616, 27,617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . ., to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess State authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he practices. *See, e.g., Hooper, supra,* 76 FR at 71,371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.,* 53 FR 11,919, 11,920 (1988); *Blanton, supra,* 43 FR at 27,617.

According to the Michigan statute concerning controlled substances, ''A license under section 7306 to manufacture, distribute, prescribe, or dispense a controlled substance is automatically void if the licensee's license to practice is suspended or revoked under article 15.''[31] Mich. Comp. Laws § 333.7311(6) (Westlaw, current through P.A. 2019, No. 18 of the 2019 Regular Session, 100th Legislature).

The evidence in the record before me is not in dispute. The Additional Stipulation consists of Respondent's admission that his medical license was summarily suspended on August 4, 2017 and, as already discussed, that summary suspension is still in effect. ALJX 30, at 1. Respondent's controlled substance registration is void under Michigan law since his medical license is suspended. Mich. Comp. Laws § 333.7311(6) (Westlaw, current through P.A. 2019, No. 18 of the 2019 Regular Session, 100th Legislature). As such, Respondent currently lacks authority in Michigan to practice medicine and to handle controlled substances. He is not, therefore, eligible for a DEA registration. For this reason, I will order that Respondent's DEA registrations be revoked. At the Government's request, however, I am also ruling on the allegations in the OSC.

Allegation That Respondent's Registrations Are Inconsistent With the Public Interest

Under Section 304 of the CSA, ''[a] registration . . . to . . . distribute[ ] or dispense a controlled substance . . . may be suspended or revoked by the Attorney General upon a finding that the registrant . . . has committed such acts as would render his registration under section 823 of this title

drug-seeking behavior, and it's a red flag. . . . A red flag is a sign or a piece of information that is indicative of possible abuse or addiction, which would require additional evaluation or referral if you're not an addiction specialist in order to prescribe controlled substances [under the applicable Michigan standard of care]. . . . I did not see [the required evaluation of U/C ever done].''

Tr. 385–87.

[30] Members of Respondent's staff later explained that ''the feds are always on him,'' ''they have to watch him very . . . closely,'' ''the other two doctor's [sic] here in Monroe . . . got busted,'' ''[t]he FDA, the state, the government is on him hot and heavy . . . breathing down his neck,'' and ''[h]e's had undercover agents in here before.'' U/C Visits Transcript, at 26–27.

[31] ''Section 7306'' is Mich. Comp. Laws § 333.7306. ''Article 15'' includes Mich. Comp. Laws. § 333.16233 (Investigations; order to cease and desist; hearing; violation of order; summary suspension of license or registration), the statute MBPL cites for taking emergency action in its Order of Summary Suspension of Respondent's medical license.

inconsistent with the public interest as determined by such section.'' 21 U.S.C. 824(a)(4). In the case of a ''practitioner,'' which is defined in 21 U.S.C. 802(21) to include a ''physician,'' Congress directed the Attorney General to consider the following factors in making the public interest determination:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing . . . controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the . . . distribution[ ] or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

21 U.S.C. 823(f). These factors are considered in the disjunctive. *Robert A. Leslie, M.D.,* 68 FR 15,227, 15,230 (2003).

According to Agency decisions, I ''may rely on any one or a combination of factors and may give each factor the weight [I] deem[ ] appropriate in determining whether'' to revoke a registration. *Id.; see also Jones Total Health Care Pharmacy, LLC* v. *Drug Enf't Admin.,* 881 F.3d 823, 830 (11th Cir. 2018) (citing *Akhtar-Zaidi* v. *Drug Enf't Admin.,* 841 F.3d 707, 711 (6th Cir. 2016); *MacKay* v. *Drug Enf't Admin.,* 664 F.3d 808, 816 (10th Cir. 2011); *Volkman* v. *U. S. Drug Enf't Admin.,* 567 F.3d 215, 222 (6th Cir. 2009); *Hoxie* v. *Drug Enf't Admin.,* 419 F.3d 477, 482 (6th Cir. 2005). Moreover, while I am required to consider each of the factors, I ''need not make explicit findings as to each one.'' *MacKay,* 664 F.3d at 816 (quoting *Volkman,* 567 F.3d at 222); *see also Hoxie,* 419 F.3d at 482. ''In short, . . . the Agency is not required to mechanically count up the factors and determine how many favor the Government and how many favor the registrant. Rather, it is an inquiry which focuses on protecting the public interest; what matters is the seriousness of the registrant's misconduct.'' *Jayam Krishna-Iyer, M.D.,* 74 FR 459, 462 (2009). Accordingly, as the Tenth Circuit has recognized, findings under a single factor can support the revocation of a registration. *MacKay,* 664 F.3d at 821.

Under DEA's regulation, ''[a]t any hearing for the revocation . . . of a registration, the . . . [Government] shall have the burden of proving that the requirements for such revocation . . . pursuant to . . . 21 U.S.C. [§] 824(a) . . . are satisfied.'' 21 CFR 1301.44(e). In this matter, while I have considered all of the factors, the Government's evidence in support of its *prima facie* case is confined to Factors One, Two and Four.[32] I find that the Government's evidence with respect to Factors One, Two, and Four satisfies its *prima facie* burden of showing that Respondent's continued registration would be ''inconsistent with the public interest.'' 21 U.S.C. 823(f). I further find that Respondent failed to produce sufficient evidence to rebut the Government's *prima facie* case.

Factors Two and/or Four—The Respondent's Experience in Dispensing Controlled Substances and Compliance With Applicable Laws Related to Controlled Substances Allegation That Respondent Issued Prescriptions for Controlled Substances Outside the Usual Course of the Professional Practice

According to the CSA's implementing regulations, a lawful prescription for controlled substances is one that is ''issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a). The Supreme Court has stated, in the context of the CSA's requirement that schedule II controlled substances may be dispensed only by written prescription, that ''the prescription requirement . . . ensures patients use controlled substances under the supervision of a doctor so as to prevent addiction and recreational abuse . . . [and] also bars doctors from peddling to patients who crave the drugs for those prohibited uses.'' *Gonzales* v. *Oregon, supra,* 546 U.S. at 274.

The Agency recently revoked the registrations of two Michigan practitioners based on charges and fact patterns that are similar to, and alleged to have taken place during the same time period as, the charges and fact patterns in this matter. *Garrett Howard Smith, M.D.,* 83 FR 18,882 (2018); *Bernard Wilberforce Shelton, M.D.,* 83 FR 14,028 (2018).

Respondent engaged a skillful team and defended himself against all of the OSC's allegations. I read and analyzed every aspect of Respondent's defense including all of the evidence he put in the record. Regarding the unlawful prescribing charge, Respondent's evidence and argument are not persuasive.[33]

I disagree with Respondent's characterization of the Government's evidence. For example, Respondent attacks Dr. Christensen's testimony by stating that ''he [Dr. Christensen] himself has prescribed a controlled substance to a patient without seeing that patient'' and that ''it is not a violation of the standard of care to rely on past physical examinations of a patient when making medical decisions.'' Respondent's Closing Argument, Proposed Findings of Fact, and Conclusions of Law dated Oct. 19, 2017 (hereinafter, Resp Brief), at 12. The context of this portion of Dr. Christensen's testimony is missing from Respondent's argument, even though it is essential to understand the expert's testimony. That context is ''a patient who is on stable medication, who has shown no aberrant behavior, and who has a normal prescription search on the day of the prescription, and between 60-day visits.'' Tr. 603.

By way of further example, Respondent asserts that, ''Dr. Christensen provided an evasive answer as to whether a whole record or a partial record would be needed to form an opinion as to a physician's standard of care.'' Resp Brief, at 15; *see also id.* at 21–23. Dr. Christensen's testimony, however, clearly debunks the notion of a whole or partial patient record because ''interval history and history of present illness, if done, would reflect what . . . relevant information or relevant events had occurred before.'' Tr. 681. In other words, Dr. Christensen's expert opinion and explanation of the Michigan standard of care support the common sense conclusion that Respondent may not defeat a charge of violating the applicable standard of care by maintaining inadequate patient records.

Respondent's characterization of some of the Government's evidence is also

[32] I already discussed the unrefuted evidence in the record and found that the MBPL summarily suspended Respondent's Michigan medical license after considering matters similar to those alleged in the OSC. I incorporate that discussion into this section regarding Factor One.

As to Factor Three, there is no evidence in the record that Respondent has a ''conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.'' 21 U.S.C. 823(f)(3). However, as Agency cases have noted, there are a number of reasons why a person who has engaged in criminal misconduct may never have been convicted of an offense under this factor, let alone prosecuted for one. *Dewey C. MacKay, M.D.,* 75 FR 49,956, 49,973 (2010), *pet. for rev. denied, MacKay* v. *Drug Enf't Admin.,* 664 F.3d 808 (10th Cir. 2011). Agency cases have therefore held that ''the absence of such a conviction is of considerably less consequence in the public interest inquiry'' and is therefore not dispositive. *Id.*

[33] As already discussed, the record evidence and analysis concerning Subsys and Food and Drug Administration requirements are insufficient to answer the legal issues raised by some of the Subsys-related allegations. Thus, those Subsys-related allegations are given no weight and play no role in my public interest assessment or my decisions about the Government's requested relief.

unpersuasive when, for example, he argues that ''if a patient was denied Subsys by the insurance company, it is reasonable to assume the patient did not receive the medication.'' Resp Brief, at 33. The insurance company's refusal to pay for a prescription and the supposedly ''reasonable'' assumption that the patient, therefore, did not receive that medication follow the actions that are legally relevant—Respondent's issuance of controlled substance prescriptions—and the Government's resulting allegation—that Respondent issued controlled substance prescriptions outside the usual course of the professional practice. In other words, the issuance of controlled substance prescriptions outside the usual course of the professional practice of medicine violates the law whether or not the patient fills a prescription or ingests one of the prescribed pills.[34]

Respondent invites me to apply alternative analyses to the OSC's allegations. For example, according to Respondent's expert, it is ''rare'' and ''less likely'' for an older patient, such as RF (80 years old) and ES (79 years old), to abuse or divert a controlled substance or medication. *Id.* at 33, 35. I decline to decide this case based on Dr. Webster's estimated probabilities instead of the applicable standard of care. *See also* FSMB Model Policy, at 3 (''Some patients share their drugs with others without intending harm (a pattern of misuse that is seen quite often among older adults).''). By way of further example, Respondent argues that his patient's views of the ''quality of care they received'' were not obtained. Resp Brief, at 5. Respondent fails, however, to provide a sound legal basis for the relevancy of those views in this proceeding. In addition, Respondent asserts that ''Dr. Christensen testified that there were no 'negative outcomes' that he was aware of with any of the patients he reviewed, other than a possible 'confusion' incident from a patient going through chemotherapy.'' *Id.* at 14. Nowhere, however, does Respondent cite legal authority for his argument that the issuance of controlled substance prescriptions outside the usual course of the professional practice only violates the law when there is a certain ''negative outcome.'' I reject Respondent's argument as meritless.[35]

Respondent suggests that his practice of medicine complies with the standard of care. If Respondent's expert were to be believed that good medicine is a higher standard than the standard of care, Respondent's suggestion could be true. Tr. 1163. As already discussed, however, I credit Dr. Christensen's articulation of the Michigan standard of care and his testimony measuring Respondent's actions against that standard of care. I reject the testimony of Respondent's expert to the extent that it conflicts with Dr. Christensen's testimony or posits an untenable ''standard of care.'' In addition, I note that even the testimony of Respondent's own expert indicates that the expert's practice of medicine differs in some respects from how the evidence shows Respondent practices medicine. *See, e.g., id.* at 1067 (Respondent's expert testifying that he ''would expect more'' medical decision making and ''talk about treatment and why certain treatments are implemented''); *id.* at 1073 (Respondent's expert testifying that ''it's just good practice to explain what you've discussed with the patient and their response'').

Respondent offered into evidence both the Michigan Guidelines and the FSMB Model Policy. He argues, unconvincingly, that he complied with both documents' applicable standards of care and did not commit ''malpractice.'' Resp Brief, at 49. In response to the testimony of the Government's expert that the medical records the Respondent created do not establish that Respondent complied with the applicable standard of care, Respondent blames law enforcement's execution of the search warrant for his incomplete patient records. As already discussed, I reject this argument. Respondent also suggests that the standard of care does not mandate a specific level of detail for recordkeeping. *See, e.g., id.* at 49, 51. Respondent's argument is without merit; I reject it. As the above-cited portions of the Michigan Guidelines and FSMB Model Policy show, the requisite recordkeeping is recordkeeping that complies with the requirements articulated in the standard of care and that supports subsequent reviews of Respondent's actions for compliance with the standard of care. In other words, a physician may not expect to vindicate himself through oral representations at the hearing about his compliance with the standard of care that were not documented in appropriately maintained patient records.

Thus, I agree with the R.D. that the record in this case establishes by substantial evidence that Respondent violated 21 CFR 1306.04(a). R.D., at 124. As such, I find that the record in this case likewise calls for the revocation of Respondent's registrations and the denial of all pending applications by Respondent for registration in Michigan. R.D., at 121–29.

Allegation That Respondent Unlawfully Possessed Controlled Substances

The CSA requires a ''separate registration . . . at each principal place of business or professional practice where the applicant . . . distributes . . . or dispenses controlled substances.'' 21 U.S.C. 822(e)(1); *see also* 21 CFR 1301.12(a), Clarification of Registration Requirements for Individual Practitioners, 71 FR 69,478 (2006); *Joe W. Morgan, D.O.,* 78 FR 61,961 (2013). The CSA's definition of ''dispense'' explicitly includes the delivery of a controlled substance to an ultimate user and the prescribing of a controlled substance. 21 U.S.C. 802(10). There is no evidence in the record that Respondent is authorized to collect controlled substances from ultimate users and other non-registrants for destruction. 21 CFR 1317.30 and 1317.40.

Michigan law prohibits a person from knowingly or intentionally possessing a controlled substance ''unless the controlled substance . . . was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice.'' Mich. Comp. Laws § 333.7403 (Westlaw, current through P.A. 2019, No. 18 of the 2019 Regular Session, 100th Legislature).

As already discussed, Respondent admits that he stored controlled substances previously prescribed to patients and controlled substance samples at his North Macomb Street office and his residence, which is not a registered location. Thus, I agree with the R.D. that Respondent violated both Federal and Michigan law by possessing controlled substances previously prescribed to patients and controlled substance samples at his North Macomb Street office and his residence. R.D., at 117.

Recordkeeping Allegations

The OSC contains two recordkeeping-related charges. First, citing 21 CFR 1304.11, paragraph 10 of the OSC charges Respondent with failing to maintain an inventory at both of his registered locations. OSC, at 4. The CSA and its implementing regulations require registrants to make a complete and accurate record of all controlled substances on hand according to

[34] This important principle applies to all controlled substance prescribing.

[35] *See, e.g.,* FSMB Model Policy, at 12 (''Good records demonstrate that a service was provided to the patient and establish that the service provided was medically necessary. Even if the outcome is less than optimal, thorough records protect the physician as well as the patient.'').

specified time schedules and to keep those records available for inspection by authorized individuals. *See, e.g.,* 21 U.S.C. 827, 21 CFR 1304.11. Respondent admits that he kept controlled substances at both of his registered locations but that he did not maintain an inventory at his North Macomb Street office. Tr. 1729–30. Thus, Respondent admits to violating the inventory requirement as to his Macomb office.

In addition, as already discussed, although Respondent's testimony is that he maintains and still possesses an inventory of controlled substances for the Stewart Road office that he ''can introduce . . . any time that you wish,'' he did not produce that alleged inventory at any time, including during the hearing. *Id.* at 1732; *see also id.* at 1729–32. As such, in addition to the violation to which Respondent admits concerning his North Macomb Street office, I find another violation of 21 CFR 1304.11 by Respondent concerning his Stewart Road office, where he admitted to having controlled substances. *Id.* at 1490.

Second, paragraph 11 of the OSC charges Respondent with failing to maintain required records for controlled substances, including records for controlled substances that were transferred from one registered location to another. OSC, at 4 (citing 21 CFR 1304.21). As a DEA registrant, Respondent is required to keep records that are complete and accurate. 21 CFR 1304.21. Respondent admits that he transferred controlled substances between his registered locations but that he did not complete the records required to memorialize those transfers. Tr. 1733. As such, I find that Respondent admits to violating 21 CFR 1304.21.

Summary of Factors Two and Four and Imminent Danger

As found above, the Government's case establishes by substantial evidence that Respondent issued controlled substance prescriptions outside the usual course of the professional practice. There is also substantial evidence that Respondent unlawfully possessed controlled substances and violated the recordkeeping requirements incumbent upon a registrant. I, therefore, conclude that Respondent engaged in egregious misconduct which supports the revocation of his registrations. *See Wesley Pope,* 82 FR 14,944, 14,985 (2017).

For purposes of the imminent danger inquiry, my findings also lead to the conclusion that Respondent has ''fail[ed] . . . to maintain effective controls against diversion or otherwise comply with the obligations of a registrant'' under the CSA. 21 U.S.C. 824(d)(2). The substantial evidence that Respondent issued controlled substance prescriptions outside the usual course of the professional practice establishes that there was ''a substantial likelihood of an immediate threat that death, serious bodily harm, or abuse of a controlled substance . . . [would] occur in the absence of the immediate suspension'' of Respondent's registrations. *Id.; see, e.g.,* Tr. 369 (the opinion of the Government's expert, Dr. Christensen, that mixing alcohol and opioids could result in death); Tr. 1080–81 (the opinion of Respondent's expert, Dr. Webster, that mixing opioids and a benzodiazepine is unsafe).

Sanction

Where, as here, the Government has met its *prima facie* burden of showing that Respondent's continued registration is inconsistent with the public interest due to his numerous violations pertaining to controlled substance prescribing, possession, and recordkeeping as well as due to his non-compliance with State law, the burden shifts to the Respondent to show why he can be entrusted with a new registration. *Garrett Howard Smith, M.D., supra,* 83 FR at 18,910 (collecting cases). Moreover, as past performance is the best predictor of future performance, DEA Administrators have held that a registrant who has committed acts inconsistent with the public interest must accept responsibility for those acts and demonstrate that he will not engage in future misconduct. *Id.* A registrant's acceptance of responsibility must be unequivocal. *Id.* In addition, a registrant's candor during the investigation and hearing has been an important factor in determining acceptance of responsibility and the appropriate sanction. *Id.* (collecting cases). In addition, DEA Administrators have found that the egregiousness and extent of the misconduct are significant factors in determining the appropriate sanction. *Id.* DEA Administrators have also considered the need to deter similar acts by the respondent and by the community of registrants. *Id.*

Regarding all of these matters, I agree with the analyses and conclusions contained in the R.D.'s Recommendations on Disposition. R.D., at 125–29. I agree with the R.D. that the record is ''devoid of any inclination on the part of the Respondent to accept any level of responsibility'' for his controlled substance prescribing in the face of multiple indications of abuse, danger, or diversion. *See id.* at 126. Concerning his recordkeeping, Respondent steadfastly maintained that he kept the required inventories and that he could produce them. Yet, he never produced those inventories and, instead, blamed the law enforcement officers who executed the search warrant for the fact that his inventories were not among the records they seized. I agree with the analysis in the R.D.

> Even beyond the dubious credibility attached to the notion that he would deliberately sit on inventories requested by DEA at the potential cost of a . . . [registration], and the impenetrable logic involved [in] blaming the agents who executed the search warrant, neither tack embodies an acceptance of responsibility under any reasonable definition.

Id. at 126–27.

Respondent stated during his testimony that he accepted responsibility for unlawfully possessing controlled substances at one of his offices and his residence. As already discussed, this limited acceptance of responsibility is unavailing. Further, even if Respondent had unequivocally accepted responsibility for all his unlawfulness such that I would reach the matter of remedial measures, I note that the remedial measures Respondent presented concerning his unlawful possession of controlled substances are not adequate. When asked what he would do if, in the future, a patient wanted to give him unused controlled substances, Respondent said that ''he 'would have the patient either dispose of it or have them call''' DI. *Id.* at 127 (citation omitted). The Chief ALJ, who observed Respondent's demeanor, concluded that Respondent's ''wry addition of . . . [DI] into the solution was an ill-timed attempt at humor.'' *Id.* I agree with the R.D. that, ''[e]ven if the Respondent's acceptance of responsibility on this issue were deemed sincere, his offer of potential remedial measures . . . [was] unpersuasive'' because he had not identified a reverse distributor and could only testify about ''some unspecified'' way of disposing of the medicine ''with coffee grounds.'' *Id.*

In sum, I find that the record supports the imposition of a sanction because the Respondent did not unequivocally accept responsibility.

The interests of specific and general deterrence ''militate in favor of revocation.'' *Id.* at 128. Respondent has evidenced no understanding that his controlled substance prescribing and recordkeeping fell short of legal requirements. As such, it is not reasonable to believe that Respondent's future prescribing and recordkeeping will comply with legal requirements.

Further, given the nature and number of Respondent's violations, a sanction less than revocation would send a message to the regulated community that compliance with the law is not a condition precedent to maintaining a registration. *Id.* at 128–29.

Accordingly, I shall order the sanctions the Government requested, as contained in the Order below.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f) and 824(a), I hereby revoke DEA Certificates of Registration BP2527058 and FP2665478 issued to Lesly Pompy, M.D. I further hereby deny any pending application of Lesly Pompy, M.D., to renew or modify these registrations, as well as any other pending application of Lesly Pompy, M.D. for registration in Michigan. Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and (d), I hereby affirm the Order of Immediate Suspension of Registrations issued to Lesly Pompy, M.D. Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(f), I hereby order the forfeiture to the United States, upon this revocation order becoming final, of all controlled substances seized pursuant to the Order of Immediate Suspension of Registrations. Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(f), I hereby declare that all right, title, and interest in all controlled substances seized pursuant to the Order of Immediate Suspension of Registrations are vested in the United States upon this revocation order becoming final. This Order is effective November 27, 2019.

Dated: September 25, 2019.

Uttam Dhillon,

Acting Administrator.

[FR Doc. 2019–23503 Filed 10–25–19; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

Post-Initial Determinations Regarding Eligiblity To Apply for Trade Adjustment Assistance

In accordance with Sections 223 and 284 (19 U.S.C. 2273 and 2395) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents Notice of Affirmative Determinations Regarding Application for Reconsideration, summaries of Negative Determinations Regarding Applications for Reconsideration, summaries of Revised Certifications of Eligibility, summaries of Revised Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Negative Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Revised Determinations (on remand from the Court of International Trade), and summaries of Negative Determinations (on remand from the Court of International Trade) regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA-W) number issued during the period of *September 1st through September 30th 2019.* Post-initial determinations are issued after a petition has been certified or denied. A post-initial determination may revise a certification, or modify or affirm a negative determination.

Notice of Revised Certifications of Eligibility

Revised certifications of eligibility have been issued with respect to cases where affirmative determinations and certificates of eligibility were issued initially, but a minor error was discovered after the certification was issued. The revised certifications are issued pursuant to the Secretary's authority under section 223 of the Act and 29 CFR 90.16. Revised Certifications of Eligibility are final determinations for purposes of judicial review pursuant to section 284 of the Act (19 U.S.C. 2395) and 29 CFR 90.19(a).

Revised Certifications of Eligibility

The following revised certifications of eligibility to apply for TAA have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination, and the reason(s) for the determination.

The following revisions have been issued.

TA-W No.	Subject firm	Location	Impact date	Reason(s)
94,455	IKEA Industry Danville LLC	Ringgold, VA	1/11/2018	Worker Group Clarification.
94,513	R1 RCM Inc	Austin, TX	2/5/2018	Wages Reported Under Different FEIN Number.
94,132	REC Solar Grade Silicon LLC	Moses Lake, WA	10/19/2018	Worker Group Clarification.
94,500	Ferro Corporation	Washington, PA	1/31/2018	Worker Group Clarification.
94,540	Schneider Electric	Peru, IN	6/23/2019	Worker Group Clarification.
94,540A	Pinkerton, JLL, Artech LLC, and Berean Group International, Inc.	Peru, IN	2/13/2018	Worker Group Clarification.
94,185	Catalina Marketing Corporation	St. Petersburg, FL	10/1/2017	Worker Group Clarification.
94,185A	Catalina Marketing Corporation	St. Louis, MO	10/1/2017	Worker Group Clarification.
94,657	Hanesbrands, Inc	Clarksville, AR	3/25/2018	Worker Group Clarification.

I hereby certify that the aforementioned determinations were issued during the period of *September 1st through September 30th 2019.* These determinations are available on the Department's website *https://www.doleta.gov/tradeact/petitioners/taa_search_form.cfm* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC this 9th day of October 2019.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2019–23457 Filed 10–25–19; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with the Section 223 (19 U.S.C. 2273) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor

herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) number issued during the period of *September 1, 2019 through September 30, 2019.* (This Notice primarily follows the language of the Trade Act. In some places however, changes such as the inclusion of subheadings, a reorganization of language, or ''and,'' ''or,'' or other words are added for clarification.)

Section 222(a)—Workers of a Primary Firm

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements under Section 222(a) of the Act (19 U.S.C. 2272(a)) must be met, as follows:

(1) The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2272(a)(1)) is that a significant number or proportion of the workers in such workers' firm (or ''such firm'') have become totally or partially separated, or are threatened to become totally or partially separated;

AND (2(A) or 2(B) below)

(2) The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be satisfied by either (A) the Increased Imports Path, or (B) the Shift in Production or Services to a Foreign Country Path/Acquisition of Articles or Services from a Foreign Country Path, as follows:

(A) Increased Imports Path:

(i) The sales or production, or both, of such firm, have decreased absolutely;

AND (ii and iii below)

(ii) (I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased; OR

(II)(aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased; OR

(II)(bb) imports of articles like or directly competitive with articles which are produced directly using the services supplied by such firm, have increased; OR

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

AND

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; OR

(B) Shift in Production or Services to a Foreign Country Path OR Acquisition of Articles or Services from a Foreign Country Path:

(i) (I) There has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; OR

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm;

AND

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Section 222(b)—Adversely Affected Secondary Workers

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(b) of the Act (19 U.S.C. 2272(b)) must be met, as follows:

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

AND

(2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act (19 U.S.C. 2272(a)), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection 222(c)(3) and (4) of the Act (19 U.S.C. 2272(c)(3) and (4));

AND

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; OR

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

Section 222(e)—Firms Identified by the International Trade Commission

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(e) of the Act (19 U.S.C. 2272(e))must be met, by following criteria (1), (2), and (3) as follows:

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1)); OR

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1)of the Act (19 U.S.C. 2436(b)(1)); OR

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

AND

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) of the Trade Act (19 U.S.C. 2252(f)(1)) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3) (19 U.S.C. 2252(f)(3)); OR

(B) notice of an affirmative determination described in subparagraph (B) or (C) of paragraph (1) is published in the **Federal Register**;

AND

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); OR

(B) notwithstanding section 223(b) of the Act (19 U.S.C. 2273(b)), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (Increased Imports Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
93,882	Harley-Davidson Motor Company Operations, Inc., Kansas City Vehicle and Powertrain Operations, etc.	Kansas City, MO	June 5, 2017.
94,418	Valente Global, Valente Solutions Division	Bellevue, WA	December 18, 2017.
94,447	A.R.E. Manufacturing, Inc., Express Employment Professionals, Elwood Staffing Services, etc.	Newberg, OR	January 8, 2018.
94,544	Ardagh Glass Inc., Ardagh Holdings Ltd	Lincoln, IL	February 15, 2018.
94,766	Clover Yarns, Inc., Clover Yarns Holdings, Inc., AmeriStaff Employment & Staffing Solutions.	Clover, VA	April 29, 2018.
94,810	Georgia-Pacific Wood Products LLC, Coos Bay Sawmill—Coos Bay, etc	Coos Bay, OR	May 13, 2018.
94,854	Clarion Sintered Metals Inc	Ridgway, PA	May 29, 2018.
94,859	Wood-Mode Incorporated	Kreamer, PA	May 29, 2018.
94,933	Jernberg Industries, LLC, AAM Chicago Plant 1, AAM—American Axle & Manufacturing, etc.	Chicago, IL	June 24, 2018.
94,939	Emerging Acquisitions LLC, Bulk Handling Systems, Bulk Handling Systems Division.	Eugene, OR	June 25, 2018.
94,960	Sumitomo Electric Semiconductor Materials, Inc. (SESMI), Sumitomo Electric U.S.A. Holdings, Sumitomo Electric Industries, etc.	Hillsboro, OR	July 1, 2018.
94,961	TreeHouse Private Brands, Inc., TreeHouse Foods, Inc	Battle Creek, MI	July 1, 2018.
94,975	Vesta Corporation, Secure Contact Solutions, Unosquare, Express Services, etc.	Lake Oswego, OR	July 8, 2018.
95,038	FreightCar, Roanoke LLC, FreightCar America, Luttrell Staffing, Workforce Unlimited, Lingo Staffing.	Roanoke, VA	September 29, 2019.
95,098	Profab Metal Products, Inc	Lynn, MA	June 24, 2018.
95,136	Millennium Rail, LLC, Watco Companies, LLC	Hollidaysburg, PA	August 29, 2018.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (Shift in Production or Services to a Foreign Country Path or Acquisition of Articles or Services from a Foreign Country Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,217	Windstream Services, LLC, IT Services, Tapfin, AIC/Comforce	Richmond, VA	October 5, 2017.
94,397	Faurecia Emissions Control Technologies USA, LLC, Clean Mobility Division, Express Employment Professionals, Manpower.	Dexter, MO	November 15, 2017.
94,619	Connexions Loyalty Travel Solution, Connexions Loyalty division, Affinion Group, Aerotek.	Boise, ID	March 11, 2018.
94,641	CDI Corporation, CDI WV Shared Service Center	Cross Lanes, WV	March 18, 2018.
94,674	LSC Communications US, LLC, TOPS Products Division, Elwood Staffing, Kelly Services.	St. George, UT	March 28, 2018.
94,718	HSBC Technology Services, USA (HTSU), Global Risk Analytics Unit, HSBC North America Holdings Inc.	Arlington Heights, IL	April 10, 2018.
94,718A	HSBC Technology Services, USA (HTSU), Global Risk Analytics Unit, HSBC North America Holdings Inc.	Buffalo, NY	April 10, 2018.
94,773	Citicorp Credit Services, Inc. (USA), Global Workforce Optimization, Real Time Management Division.	Irving, TX	May 1, 2018.
94,840	Lufkin Industries, LLC, Corporate Office, Baker Hughes, GE Company	Lufkin, TX	May 23, 2018.
94,850	Geometric Americas, Inc., HCL Americas Inc., Palaj Packaging LLC	Troy, MI	May 24, 2018.
94,858	Teck Washington Incorporated, Pend Oreille Operations, 7 Seasons, Redpath	Metaline Falls, WA	May 29, 2018.
94,868	SAP America, SAP Sybase, Inc	Burlington, MA	June 4, 2018.
94,884	TTM Technologies, Inc., C & C (Communications & Computing) Division, Kelly Services, Manpower.	Chippewa Falls, WI	June 7, 2018.
94,892	Seagate Technology, Manpower	Valencia, CA	June 11, 2018.
94,893	U.S. Bank National Association, Consumer & Business Banking Operations Unit, Lien Release Division, etc.	Irvine, CA	June 11, 2018.
94,902	Symantec Corporation, Akraya, Atrilogy Solutions Group, Central Business Solutions, etc.	Mountain View, CA	May 23, 2018.
94,902A	Symantec Corporation, Akraya, Atrilogy Solutions Group, Central Business Solutions, etc.	Culver City, CA	May 23, 2018.
94,902B	Symantec Corporation, Akraya, Atrilogy Solutions Group, Central Business Solutions, etc.	San Francisco, CA	May 23, 2018.
94,902C	Symantec Corporation, Akraya, Atrilogy Solutions Group, Central Business Solutions, etc.	San Diego, CA	May 23, 2018.
94,918	Commemorative Brands Inc., American Achievement Corporation	Austin, TX	August 2, 2019.
94,941	Delta Air Lines Inc., Information Technology Infrastructure & Liability, etc	Atlanta, GA	June 25, 2018.
94,941A	Delta Air Lines Inc., Information Technology Infrastructure & Liability, etc	Eagan, MN	June 25, 2018.
94,942	Cisco Systems, Inc., Payroll Department	San Jose, CA	June 25, 2018.
94,951	The Bank of New York Mellon, Global Custody and Cash Services, The Bank of New York Mellon Corporation.	East Syracuse, NY	June 27, 2018.

TA–W No.	Subject firm	Location	Impact date
94,951A	The Bank of New York Mellon, Global Custody and Cash Services, The Bank of New York Mellon, etc.	Pittsburgh, PA	June 27, 2018.
94,966	IBM, Global Business Services	Milwaukee, WI	June 28, 2018.
94,978	Tramontina USA, Inc., Randstad	Sugar Land, TX	July 9, 2018.
94,978A	Tramontina US Cookware, Inc., Tramontina USA, QPS Employment Group, IQ Resource Group, etc.	Manitowoc, WI	July 9, 2018.
94,987	Blossom Clothing Inc	Los Angeles, CA	July 12, 2018.
94,989	Providence Health & Services–Washington, Supply Chain Management, Kelly Services, Vincent Benjamin, KFORCE, etc.	Torrance, CA	July 12, 2018.
94,989A	Providence Health & Services–Washington, Supply Chain Management, Kelly Services, Vincent Benjamin, KFORCE, etc.	Burbank, CA	July 12, 2018.
94,989B	Mission Hospital Regional Medical Center, Finance, St. Joseph Health System, Kelly Services, Vincent Benjamin, etc.	Mission Viejo, CA	July 12, 2018.
94,989C	St. Joseph Health Northern California, LLC, Finance, St. Joseph Health System, Kelly Services, Vincent Benjamin, etc.	Napa, CA	July 12, 2018.
94,989D	St. Joseph Health Northern California, LLC, Finance, St. Joseph Health System, Kelly Services, Vincent Benjamin, etc.	Santa Rosa, CA	July 12, 2018.
94,989E	St. Joseph Health System, Finance, Kelly Services, Vincent Benjamin, KFORCE, Nuwest, etc.	Irvine, CA	July 12, 2018.
94,989F	St. Joseph Health System, Supply Chain Management, Kelly Services, Vincent Benjamin, KFORCE, etc.	Irvine, CA	July 12, 2018.
94,989G	St. Joseph Heritage Health Care, Finance, St. Joseph Health System, Kelly Services, Vincent Benjamin, etc.	Irvine, CA	July 12, 2018.
94,989H	St. Joseph Hospital, Orange, Finance, St. Joseph Health System, Kelly Services, Vincent Benjamin, etc.	Orange, CA	July 12, 2018.
94,989I	St. Jude Medical Center, Finance, St. Joseph Health System, Kelly Services, Vincent Benjamin, etc.	Fullerton, CA	July 12, 2018.
94,989J	St. Mary Medical Center, Finance, St. Joseph Health System, Kelly Services, Vincent Benjamin, etc.	Apple Valley, CA	July 12, 2018.
94,993	ET Publishing International LLC, Televisa S.A. De C.V	Miami, FL	July 15, 2018.
94,996	Navico, Inc., Nanna U.S. BidCo LLC	Minneapolis, MN	July 15, 2018.
94,998	State Street Corporation, USIS Insurance Services Division	Kansas City, MO	July 16, 2018.
95,001	Felchar Manufacturing, Shop Vac Corporation, Eastern Temporaries, 191 Corporate Drive.	Binghamton, NY	July 17, 2018.
95,001A	Felchar Manufacturing, Shop Vac Corporation, Eastern Temporaries, 196 Corporate Drive.	Binghamton, NY	September 29, 2019.
95,001B	Felchar Manufacturing, Shop Vac Corporation, Eastern Temporaries, 47–51 Pine Camp Drive.	Binghamton, NY	September 29, 2019.
95,001C	Staffworks, Felchar Manufacturing, Shop Vac Corporation, 191 Corporate Drive, etc.	Binghamton, NY	July 17, 2018.
95,004	Providence Health & Services–Washington, Supply Chain Management, Accounting Principals, Accountemps, Southgate I.	Renton, WA	July 18, 2018.
95,004A	Providence Health & Services–Washington, Supply Chain Management, Finance, Accounting Principals, Accountemps, etc.	Renton, WA	July 18, 2018.
95,004B	Providence Health & Services–Washington, Finance, Accounting Principals, Accountemps, Valley Office Park.	Renton, WA	July 18, 2018.
95,004C	Providence Health & Services–Washington, Supply Chain Management, Accounting Principals, Accountemps, etc.	Spokane, WA	July 18, 2018.
95,004D	Providence Health & Services–Washington, Supply Chain Management, Accounting Principals, Accountemps, etc.	Spokane, WA	July 18, 2018.
95,004E	Providence Health & Services–Washington, Supply Chain Management, Finance, Accounting Principals, Accountemps, etc.	Anchorage, AK	July 18, 2018.
95,009	The Worth Collection, Ltd., Oasis Outsourcing	New York, NY	June 20, 2018.
95,014	Delphi Technologies Services, LLC, Technical Center Rochester, Delphi Powertrain Systems Luxembourg Sarl, etc.	West Henrietta, NY	July 21, 2018.
95,015	MediaKind, MK Systems USA, Ericsson Media Solutions, BMDA Media TV Platforms, etc.	Santa Clara, CA	July 24, 2018.
95,024	AT&T Business–Global Operations & Services, Delivery Excellence/Global Product Ordering, AT&T Services, AT&T Inc.	Brecksville, OH	July 30, 2018.
95,027	KCI USA, Inc., San Antonio Advantage Center, KCI Licensing, Inc., Aerotek	San Antonio, TX	July 30, 2018.
95,027A	KCI USA, Inc., Charlotte Advantage Center, KCI Licensing, Inc., Aerotek	Charlotte, NC	July 30, 2018.
95,040	Mondi Bags USA, LLC, Mondi Bags GMBH, Express Employment Services	Pine Bluff, AR	August 1, 2018.
95,041	Newell Brands, Rubbermaid Commercial Products, Life Style Staffing	Winchester, VA	August 1, 2018.
95,046	Aluwind, Inc., Alumeco A/S	Castle Rock, CO	August 6, 2018.
95,051	Alo Tennessee Inc. and Alo USA, Inc., Alo AB, Luttrell Staffing Group, Randstad USA, etc.	Telford, TN	August 7, 2018.
95,055	LEDVANCE LLC, Manpower Inc., Connected Systems Partners	Wilmington, MA	August 7, 2018.
95,056	Workforce Logiq	Dallas, TX	August 7, 2018.
95,063	Consolidated Metco, Inc., Bryson City Plant, Amsted Industries Incorporated	Bryson City, NC	June 23, 2019.
95,063A	Adecco Staffing, Consolidated Metco, Inc., Bryson City Plant, Amsted Industries Incorporated.	Bryson City, NC	August 12, 2018.
95,067	Liberty Mutual Insurance Company, Claims Subrogation, Liberty Mutual Group, LMHC Massachusetts Holdings, etc.	Allentown, PA	August 12, 2018.

TA–W No.	Subject firm	Location	Impact date
95,069	Newell Brands (Sunbeam Products, Inc.), Customer Care Lines, Newell Brands, Onin Temporary Services.	McMinnville, TN	August 12, 2018.
95,079	La-Z-Boy Inc., Residential Division	Newton, MS	August 15, 2018.
95,082	S7 Sea Launch Limited, S7 Space Transportation Systems	Long Beach, CA	August 15, 2018.
95,085	Schneider Electric IT USA, Inc., Secure Power: 3Phase UPS Division, Schneider Electric.	Costa Mesa, CA	August 16, 2018.
95,086	Teletrac Navman, Technical Support Team, Fortive Corporation, AppleOne Employment, Adecco.	Garden Grove, CA	August 16, 2018.
95,088	Web.com Group, Inc., Finance Department, Siris Capital Group, LLC	Jacksonville, FL	August 16, 2018.
95,092	Littelfuse Inc	Orange, CA	August 16, 2018.
95,102	Karcher North America, Alfred Karcher Holdings, Inc., Office Team, CDW LLC, NW Staffing Group.	Camas, WA	August 20, 2018.
95,111	TE Connectivity, Industrial & Commercial Transportation, Select Staffing	Hemet, CA	August 22, 2018.
95,114	Newell Brands, Consumer Services Team, United Personnel	South Deerfield, MA	August 22, 2018.
95,123	GP Strategies, IT Help Desk	Columbia, MD	August 26, 2018.
95,127	Conifer Revenue Cycle Solutions, LLC, Conifer Health Solutions, LLC	Des Moines, IA	August 27, 2018.
95,128	CSG Systems, Inc., CSG Systems International, Inc	Greenwood Village, CO.	August 27, 2018.
95,128A	CSG Systems, Inc., CSG Systems International, Inc	Englewood, CO	August 27, 2018.
95,137	ADP Technology Services, Inc., Automatic Data Processing, Inc	Owings Mills, MD	August 30, 2018.
95,144	Tokio Marine Management, LLC, Data Automation, Ultimate Staffing, People 2.0 North America, etc.	Pasadena, CA	September 3, 2018.
95,161	Excelitas Technologies, Aerotek, A+Search, Richmar	Fremont, CA	September 9, 2018.
95,165	Triumph Composites Systems, Inc., A Division of Triumph Group	Spokane, WA	March 15, 2019.
95,166	United Parcel Service General Service Company, United Parcel Service of America Inc., TAPFIN Manpower.	Coppell, TX	September 9, 2018.
95,168	Bayer U.S. LLC, Belcan Tech Services, Computer Task Group, US Tech Solutions, YOH, etc.	Mishawaka, IN	September 10, 2018.
95,177	Signify	Tupelo, MS	September 11, 2018.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,782	OMNOVA Solutions Inc., ABR Employment Services	Green Bay, WI	May 3, 2018.
95,060	Seneca Foods LLC, Seneca Foods Corporation	Sunnyside, WA	August 9, 2018.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,956	Elcam, Inc., LEDVANCE Department	St. Marys, PA	June 28, 2018.

The following certifications have been issued. The requirements of Section 222(e) (firms identified by the International Trade Commission) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
95,094	Cambria Company LLC	Le Sueur, MN	July 5, 2018.
95,133	Artelye Inc.	Beltsville, MD	July 5, 2018.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for TAA have not been met for the reasons specified.

The investigation revealed that the requirements of Trade Act section 222 (a)(1) and (b)(1) (significant worker total/partial separation or threat of total/partial separation), or (e) (firms identified by the International Trade Commission), have not been met.

TA–W No.	Subject firm	Location	Impact date
94,217B	Windstream Services, LLC, CLEC Operations, Enterprise Business Unit, Tapfin, AIC/Comforce.	Richmond, VA.	

TA–W No.	Subject firm	Location	Impact date
94,217C	Windstream Services, LLC, Enterprise Access, Enterprise Business Unit, Tapfin, AIC/Comforce.	Richmond, VA.	

The investigation revealed that the criteria under paragraphs (a)(2)(A)(i) (decline in sales or production, or both), or (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply for TAA), and (e) (International Trade Commission) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
94,141	Formosa Plastics Corporation, Formosa Plastics Corporation U.S.A., Specialty PVC Division.	Delaware City, DE.	
94,597	FCA US LLC, Belvidere Assembly Plant	Belvidere, IL.	
95,049	Linear AMS, Minute Men, Advanced Staffing	Livonia, MI.	

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports), (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply for TAA), and (e) (International Trade Commission) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
93,887	Advanced Business Teleservices	Talent, OR.	
94,110	Atos IT Solutions & Services Inc., Mobile Device Management Team, Zero Chaos.	Irving, TX.	
94,217A	Windstream Services, LLC, Enterprise Care and Repair Center, Enterprise Business, Tapfin, etc.	Richmond, VA.	
94,375	JPMorgan Chase Bank, N.A., Storage Refresh, Global Technology Infrastructure, JPMorgan Chase & Co.	Jersey City, NJ.	
94,467	Kmart Distribution Center, Transport Corporation of America, Heartland Express, Swift Transportation.	Warren, OH.	
94,490	Medtronic PLC, Kelly Services Inc., Midlance, On Assignment Staffing Services.	Plainfield, IN.	
94,519	N & L Enterprises, Call Center	Winchester, VA.	
94,529	LSC Communications Printing Company, Staffmark, Kelly Services	Lynchburg, VA.	
94,591	Dakkota Integrated Systems, LLC, Cardinal Staffing, Malone Staffing, Manpower.	Brownstown, MI.	
94,625	KGP Telecommunications, LLC, KGPCo, Staffmark, Express Employment Professionals, 2000 West Winona Avenue.	Warsaw, IN.	
94,625A	KGP Telecommunications, LLC, KGPCo, Staffmark, Express Employment Professionals, 3454 North Detroit St.	Warsaw, IN.	
94,639	Adair Printing Co., Inc., Adair Payroll Services, Trillium Staffing	Standish, MI.	
94,689	Philly Shipyard, Inc., Philly Shipyard ASA, HKA Enterprises LLC	Philadelphia, PA.	
94,742	Hearst Media Services Connecticut LLC, Newspaper Division, Hearst Communications Inc.	Norwalk, CT.	
94,743	Logic Solutions Inc., Logic Dental Solutions	Lakewood, CO.	
94,745	ReEnergy Fort Fairfield LLC, ReEnergy Biomass Operations LLC	Fort Fairfield, ME.	
94,745A	ReEnergy Ashland LLC, ReEnergy Biomass Operations LLC	Ashland, ME.	
94,778	Motor Castings Company, Dalton Foundry Corporation, KD Staffing	West Allis, WI.	
94,827	Alorica, Inc., Information Technology (IT), Human Resources (HR)	Irvine, CA.	
94,827A	Alorica, Inc., Information Technology (IT), Human Resources (HR), etc	St. Joseph, MO.	
94,832	Classic American Hardwoods, Inc	Memphis, TN.	
94,877	IBM, GBS (Global Business Services) Division	Coppell, TX.	
94,905	Cameron Technologies US, Inc., Guidant Global	Duncan, OK.	
94,912	Halliburton Energy Services, Inc	Duncan, OK.	
94,913	Printing Inc. an RR Donnelley Company, Commercial Division	Wichita, KS.	
94,922	Oak Valley, Inc., Headquarters Facility	Marion, NC.	
94,922A	Oak Valley, Inc., Robbinsville Facility	Robbinsville, NC.	
94,924	KapStone Container Corporation, WestRock Company	Amsterdam, NY.	
94,928	Intel Americas, Intel Corporation, Data Center Group, Kelly Temporary Services, etc.	Eau Claire, WI.	
94,930	Trouw Nutrition USA LLC, Anchor USA, Westaff, Employment Plus	Willmar, MN.	
94,950	AT&T Business—Global Operations & Services, Piscataway Delivery Excellence Team, etc.	Piscataway, NJ.	
94,969	Volt Workforce Solutions, Volt Customer Care Solutions (VCCS)	Las Cruces, NM.	
94,992	CoreLogic Solutions, LLC, CoreLogic Valuation Services, Aerotek, AppleOne, Fox–1 Resources, etc.	Bloomington, MN.	

TA–W No.	Subject firm	Location	Impact date
95,007	Union Pacific Railroad, Hinkle Yard, Union Pacific Corporation	Hermiston, OR.	
95,007A	Union Pacific Railroad, Supply Warehouse and Locomotive Shop, Union Pacific Corporation.	Hermiston, OR.	
95,016	Burke Industries (Delaware), LLC, Mannington Mills, Inc., Kelly Services	San Jose, CA.	
95,065	Futurewei Technologies, Inc., Huawei Technologies, Seattle Research Center, Workforce Logiq, etc.	Bellevue, WA.	
95,065A	Futurewei Technologies, Inc., Huawei Technologies, New Jersey Research Center, Workforce Logiq, etc.	Bridgewater, NJ.	
95,065B	Futurewei Technologies, Inc., Huawei Technologies, Phoenix Office, Workforce Logiq, Experis, Wipro, etc.	Chandler, AZ.	
95,065C	Futurewei Technologies, Inc., Huawei Technologies, Greensboro Office, Workforce Logiq, Experis, etc.	Greensboro, NC.	
95,065D	Futurewei Technologies, Inc., Huawei Technologies, Louisville Office, Workforce Logiq, Experis, etc.	Louisville, CO.	
95,065E	Futurewei Technologies, Inc., Huawei Technologies, Mountain View Office, Workforce Logiq, Experis, etc.	Mountain View, CA.	
95,065F	Futurewei Technologies, Inc., Huawei Technologies, San Diego Research Center, Workforce Logiq, etc.	San Diego, CA.	
95,065G	Futurewei Technologies, Inc., Huawei Technologies, San Francisco Office, Workforce Logiq, Experis, etc.	San Francisco, CA.	
95,065H	Futurewei Technologies, Inc., Huawei Technologies, Dallas Research Center, Workforce Logiq, Experis, etc.	Plano, TX.	
95,065I	Futurewei Technologies, Inc., Huawei Technologies, Rolling Meadows Office, Workforce Logiq, Experis, etc.	Rolling Meadows, IL.	
95,146	Optum Care, Inc., ProHealth Physicians Division, UnitedHealth Group	Farmington, CT.	

Determinations Terminating Investigations of Petitions for Trade Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's website, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
94,769	U.S. Bank, Portland Columbia Center	Portland, OR	
95,089	Bank of Montreal	New York, NY	
95,097	Logic PD	Montevideo, MN	

The following determinations terminating investigations were issued in cases where the petition regarding the investigation has been deemed invalid.

TA–W No.	Subject firm	Location	Impact date
94,672	Outsource Management Services, Negotiations Department (AKA DR Processing Department).	Costa Mesa, CA	
94,931	Artech	Morristown, NJ	
94,977	Schwebels Baking Company	Youngstown, OH	
95,059	JPMorgan Chase Bank, NA	Columbus, OH	
95,083	TE Connectivity	Berwyn, PA	

The following determinations terminating investigations were issued because the worker group on whose behalf the petition was filed is covered under an existing certification.

TA–W No.	Subject firm	Location	Impact date
94,904	AARCO, IKEA Industry Danville LLC	Ringgold, VA	
94,936	R1 RCM Inc., Accretive Health, Inc.	Austin, TX	
94,967	Providence Medford Medical Center	Medford, OR	
95,019	Safway, REC Solar Grade Silicon LLC, REC Silicon Inc.	Moses Lake, WA	
95,030	Catalina Marketing Corporation, Media Services division, PDM Group Holding Corporation.	St. Louis, MO	
95,075	Schneider Electric	Peru, IN	
95,084	Kelly Services, Inc., Hanesbrands, Inc., Long-Fold Women's Hosiery	Clarksville, AR	
95,091	Kimberly-Clark Corporation, Fullerton-Tissue division	Fullerton, CA	

I hereby certify that the aforementioned determinations were issued during the period of *September 1, 2019 through September 30, 2019.* These determinations are available on the Department's website *https://www.doleta.gov/tradeact/petitioners/taa_search_form.cfm* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington DC this 9th day of October 2019.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2019–23454 Filed 10–25–19; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Benefit Appeals Report

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL's) Employment and Training Administration (ETA) is soliciting comments concerning a proposed revision for the authority to conduct the information collection request (ICR) titled ''Benefit Appeals Report.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by December 27, 2019.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Candace Edens by telephone at (202) 693–3195 (this is not a toll-free number), TTY 1–877–889–5627 (this is not a toll-free number), or by email at *edens.candace@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Room S–4524, 200 Constitution Avenue NW, Washington, DC 20210; or by email at *edens.candace@dol.gov*; or by Fax at (202) 693–3975.

FOR FURTHER INFORMATION CONTACT: Candace Edens by telephone at (202) 693–3195 (this is not a toll-free number) or by email at *edens.candace@dol.gov.*

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The ETA–5130, Benefit Appeals Report, contains information on the number of unemployment insurance appeals and the resultant decisions classified by program, appeals level, cases filed and disposed of (workflow), and decisions by level, appellant, and issue. DOL uses the data collected by this report to monitor the benefit appeals process in the state workforce agencies and to develop any needed plans for remedial action. DOL also uses the data to prepare workload forecasts and to determine administrative funding. If this information were not available, developing problems might not be discovered early enough to allow for timely solutions and avoidance of time consuming and costly corrective action. Section 302(a), Social Security Act (SSA), Section 303(a)(1), SSA, and Section 303(a)(3), SSA, authorize this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB control number 1205–0172.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, (*e.g.,* permitting electronic submission of responses).

Agency: DOL–ETA.

Type of Review: Revision.

Title of Collection: Benefit Appeals Report.

Form: ETA 5130.

OMB Control Number: 1205–0172.

Affected Public: State Workforce Agencies.

Estimated Number of Respondents: 53.

Frequency: Monthly.

Total Estimated Annual Responses: 1,272.

Estimated Average Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 1,272 hours.

Total Estimated Annual Other Cost Burden: $0.

Authority: 44 U.S.C. 3506(c)(2)(A).

John Pallasch,

Assistant Secretary for Employment and Training.

[FR Doc. 2019–23453 Filed 10–25–19; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Administrator of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing provided such request is filed in writing with the Administrator, Office of Trade Adjustment Assistance, at the address shown below, no later than November 7, 2019.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Administrator, Office of Trade Adjustment Assistance, at the address shown below, not later than November 7, 2019.

The petitions filed in this case are available for inspection at the Office of the Administrator, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW, Washington, DC 20210.

Signed at Washington, DC, this 9th day of October 2019.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

Appendix

98 TAA PETITIONS INSTITUTED BETWEEN 9/1/19 AND 9/30/19

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
95137	ADP Technology Services, Inc. (State/One-Stop)	Owings Mills, MD	09/03/19	08/30/19
95138	Conduent Commercial Solutions LLC (State/One-Stop)	Tigard, OR	09/03/19	08/30/19
95139	Macom (State/One-Stop)	Ithaca, NY	09/03/19	08/30/19
95140	McWane, Inc. (State/One-Stop)	Oakland, CA	09/03/19	08/29/19
95141	Ryder Services Inc. (State/One-Stop)	Miami, FL	09/03/19	08/27/19
95142	TL Clothing, Inc. (State/One-Stop)	Los Angeles, CA	09/03/19	08/30/19
95143	AK Steel Corporation (Union)	Ashland, KY	09/04/19	09/04/19
95144	Tokio Marine Management, LLC (State/One-Stop)	Pasadena, CA	09/04/19	09/03/19
95145	Deutsche Bank (State/One-Stop)	New York, NY	09/05/19	09/04/19
95146	Optum Care, Inc. (State/One-Stop)	Farmington, CT	09/05/19	09/04/19
95147	State Street Bank & Trust Company (State/One-Stop)	Boston, MA	09/05/19	09/04/19
95148	Verso Luke LLC, NewPage Corporation (State/One-Stop)	Luke, MD	09/05/19	09/04/19
95149	AIG Employee Services, Inc. (State/One-Stop)	New York, NY	09/06/19	09/05/19
95150	Bridgestone Americas, Inc. (State/One-Stop)	Antioch, TN	09/06/19	09/05/19
95151	Briggs & Stratton Corporation (Workers)	Murray, KY	09/06/19	08/20/19
95152	DeVry University (Workers)	Chicago, IL	09/06/19	09/03/19
95153	Paradigm Solutions LLC (State/One-Stop)	St. Clair, PA	09/06/19	09/05/19
95154	Sigue Corporation (State/One-Stop)	Sylmar, CA	09/06/19	09/06/19
95155	Subtext LLC (State/One-Stop)	Portland, OR	09/06/19	09/05/19
95156	XP Power LLC (Workers)	Minden, NV	09/06/19	08/28/19
95157	Blue Shield of CA (State/One-Stop)	Lodi, CA	09/09/19	09/04/19
95158	Keystone Powered Metal Company (Union)	St. Marys, PA	09/09/19	08/26/19
95159	MMP Enterprises (State/One-Stop)	Sidney, NE	09/09/19	09/06/19
95160	Payless ShoeSource (6005 North Figueroa Street, Los Angeles) (State/One-Stop).	Los Angeles, CA	09/09/19	09/06/19
95161	Excelitas Technologies (State/One-Stop)	Fremont, CA	09/10/19	09/09/19
95162	Norfolk Southern (Union)	Altoona, PA	09/10/19	09/09/19
95163	Q-Edge Corporation; Foxconn HonHai Logistics California LLC (State/One-Stop).	Plainfield, IN	09/10/19	09/09/19
95164	State Street Corporation (State/One-Stop)	Boston, MA	09/10/19	09/09/19
95165	Triumph Composites Systems, Inc. (Union)	Spokane, WA	09/10/19	09/05/19
95166	United Parcel Service General Service Company (State/One-Stop).	Coppell, TX	09/10/19	09/09/19
95167	West Corporation (State/One-Stop)	Manassas, VA	09/10/19	09/09/19
95168	Bayer U.S. LLC (State/One-Stop)	Mishawaka, IN	09/11/19	09/10/19
95169	Corn Plus (State/One-Stop)	Winnebago, MN	09/11/19	09/10/19
95170	CreativeDrive (State/One-Stop)	Portland, OR	09/11/19	09/10/19
95171	Forever 21 Inc. (State/One-Stop)	Los Angeles, CA	09/11/19	09/10/19
95172	Sykes Enterprises (State/One-Stop)	Vansant, VA	09/11/19	09/09/19
95173	Virtual Business Office Associates (VBOA) (Workers)	Columbia, SC	09/11/19	09/05/19
95174	XPO Logistics (State/One-Stop)	Montgomery, IL	09/11/19	09/10/19
95175	Annan Marketing (State/One-Stop)	Overland Park, KS	09/12/19	09/11/19
95176	General Motors Fairfax Assembly & Stamping (State/One-Stop).	Kansas City, KS	09/12/19	09/11/19
95177	Signify (Company)	Tupelo, MS	09/12/19	09/11/19
95178	Honeywell Safety Products (State/One-Stop)	Smithfield, RI	09/13/19	09/12/19
95179	Innocor Foam Technologies (State/One-Stop)	Lebanon, MO	09/13/19	09/12/19
95180	Johnson Control (State/One-Stop)	Westminster, MA	09/13/19	09/12/19

98 TAA PETITIONS INSTITUTED BETWEEN 9/1/19 AND 9/30/19—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
95181	Omega Apparel Inc. (State/One-Stop)	Smithville, TN	09/13/19	09/12/19
95182	Waitr Holdings Inc. (State/One-Stop)	Lake Charles, LA	09/13/19	09/12/19
95183	Bausch Health (State/One-Stop)	Irvine, CA	09/16/19	09/13/19
95184	Del Monte Foods Inc. (State/One-Stop)	Mendota, IL	09/16/19	09/12/19
95185	Stone Suppliers (State/One-Stop)	Mundelein, IL	09/16/19	09/11/19
95186	Westech Building Products (USA) (State/One-Stop)	Mt. Vernon, IN	09/16/19	09/16/19
95187	Apricot Power Inc. (State/One-Stop)	Lakeport, CA	09/17/19	09/16/19
95188	State Street Corporation (Company)	North Quincy, MA	09/17/19	09/16/19
95189	TI Fluid Systems (Company)	Greeneville, TN	09/17/19	09/16/19
95190	Eagle Mine, LLC.—Exploration Department (Company)	Negaunee, MI	09/18/19	09/17/19
95191	MTBC-Med, Incorporated (State/One-Stop)	Somerset, NJ	09/18/19	08/30/19
95192	Nestle USA (State/One-Stop)	Glendale Heights, IL	09/18/19	09/16/19
95193	Manac Trailers USA, Inc. (State/One-Stop)	Oran, MO	09/19/19	09/18/19
95194	Coorstek (State/One-Stop)	Hillsboro, OR	09/20/19	09/19/19
95195	Trelleborg Coated Systems (Company)	Morristown, TN	09/20/19	09/19/19
95196	West Corporation (State/One-Stop)	West Point, GA	09/20/19	09/19/19
95197	Rentrak (State/One-Stop)	Portland, OR & Reston, VA, OR.	09/23/19	09/20/19
95198	IBM Corporation (State/One-Stop)	Beaverton, OR	09/23/19	09/20/19
95199	Kennametal, Inc. (Company)	Irwin, PA	09/23/19	09/23/19
95200	Kopin Corporation (State/One-Stop)	Scotts Valley, CA	09/23/19	09/20/19
95201	US Steel—Great Lakes Works (State/One-Stop)	Ecorse, MI	09/23/19	09/20/19
95202	Bimbo Bakeries (State/One-Stop)	South Sioux City, NE	09/24/19	09/23/19
95203	Bose Corporation (State/One-Stop)	Stow, MA	09/24/19	09/23/19
95204	Concentrix CVG Corporation (State/One-Stop)	Longview, TX	09/24/19	09/23/19
95205	Draka Cableteq USA Inc. (State/One-Stop)	Hutchinson, KS	09/24/19	09/23/19
95206	Honeywell Safety Products (Workers)	Franklin, PA	09/24/19	09/23/19
95207	IntraPac International LLC (Union)	Plattsburgh, NY	09/24/19	09/23/19
95208	Norfolk Southern (Union)	Roanoke, VA	09/24/19	09/23/19
95209	Owens-Brockway a Owens-Illinois Company (State/One-Stop).	Waco, TX	09/24/19	09/23/19
95210	Quad Graphics (State/One-Stop)	Shakopee, MN	09/24/19	09/23/19
95211	SCSI (State/One-Stop)	Montgomery, IL	09/24/19	09/17/19
95212	Fiber Innovators International (Company)	Grover, NC	09/25/19	09/23/19
95213	Medtronic Coronary & Structural Heart (State/One-Stop)	Santa Rosa, CA	09/25/19	09/20/19
95214	Roseburg Forest Products (Union)	Dillard, OR	09/25/19	09/24/19
95215	Teck Washington Incorporated (State/One-Stop)	Metaline Falls, WA	09/25/19	09/19/19
95216	TTEC Healthcare Solutions (State/One-Stop)	Temple, TX	09/25/19	09/24/19
95217	U.S. Bank (Company)	Owensboro, KY	09/25/19	09/23/19
95218	Whitesell (Company)	Muscle Shoals, AL	09/25/19	09/12/19
95219	WS Packaging (State/One-Stop)	Rochester, NY	09/25/19	09/24/19
95220	Harman International (Company)	Farmington Hills, MI	09/26/19	09/25/19
95221	Manitou Americas (State/One-Stop)	Madison, SD	09/26/19	09/25/19
95222	Ortho Clinical Diagnostics (Workers)	Raritan, NJ	09/26/19	09/24/19
95223	Pattison Sand Company (State/One-Stop)	Clayton, IA	09/26/19	09/25/19
95224	U.S. Bank (State/One-Stop)	Irving, TX	09/26/19	09/25/19
95225	Conifex USA Inc. (State/One-Stop)	El Dorado, AR	09/27/19	09/26/19
95226	ERMCO Inc. (State/One-Stop)	Little Rock, AR	09/27/19	09/26/19
95227	Franklin Electric Company Inc. (State/One-Stop)	Little Rock, AR	09/27/19	09/26/19
95228	Meryl Diamond Limited (Workers)	New York, NY	09/27/19	09/25/19
95229	Starmark Cabinetry (State/One-Stop)	Sioux Falls, SD	09/27/19	09/26/19
95230	Harman International Industries, Inc. (State/One-Stop)	Novi, MI	09/30/19	09/30/19
95231	Seaworld (State/One-Stop)	Orlando, FL	09/30/19	09/27/19
95232	Wells Fargo (State/One-Stop)	Bloomington, MN	09/30/19	09/27/19
95233	Wells Fargo (State/One-Stop)	Shoreview, MN	09/30/19	09/27/19
95234	Xerox Corporation (Workers)	Rosemont, IL	09/30/19	09/27/19

[FR Doc. 2019–23455 Filed 10–25–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Reemployment Services and Eligibility Assessments (RESEA) Implementation Study

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Office of the Assistant Secretary for Policy, Chief Evaluation Office (CEO) sponsored information collection request (ICR) proposal titled, ''Reemployment Services and Eligibility Assessments (RESEA) Implementation Study,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before November 27, 2019.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201904-1290-001* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-CEO, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks PRA authority for the Reemployment Services and Eligibility Assessments (RESEA) Implementation Study information collection. The Chief Evaluation Office (CEO) of the U.S. Department of Labor will conduct a three-year evaluation to develop strategies to support the evidence requirements for the RESEA program that were enacted as part of the Bipartisan Budget Act of 2018 (Pub. L. 115 123. As part of the RESEA Implementation study, this submission seeks clearance for three data collection activities: (1) Key informant interviews during site visits; (2) telephone interviews with workforce agencies; and (3) a web-based survey of all states and territories operating RESEA programs.

This proposed information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB, under the PRA, approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on December 07, 2018 (83 FR 63188).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty-(30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB ICR Reference Number 121904–1290–001. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility:
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL-CEO.

Title of Collection: Reemployment Services and Eligibility Assessments (RESEA) Implementation Study.

OMB ICR Reference Number: 201904–1290–001.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 96.

Total Estimated Number of Responses: 96.

Total Estimated Annual Time Burden: 122 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: October 21, 2019.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2019–23456 Filed 10–25–19; 8:45 am]

BILLING CODE 4510–HX–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2017–0004]

Maritime Advisory Committee for Occupational Safety and Health (MACOSH): Notice of Meeting

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

ACTION: Notice of MACOSH meeting.

SUMMARY: This **Federal Register** notice announces meetings of the Maritime Advisory Committee for Occupational Safety and Health (MACOSH) workgroups and full Committee on November 19 and 20, 2019 in Washington, DC.

DATES: MACOSH will meet from 9:00 a.m. until approximately 4:00 p.m., ET.

ADDRESSES: The workgroups and Committee will meet at the U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue NW, Washington, DC 20210. The workgroups will meet on November 19, 2019, and the full-committee on November 20, 2019, in Conference Rooms N4437A–D. Meeting attendees must use the visitor's entrance located at 3rd & C Streets, NW.

Submission of comments and requests to speak: Submit comments and requests to speak at the MACOSH meeting, identified by the docket number for this **Federal Register** notice (Docket No. OSHA–2017–0004), by November 1, 2019, in one of the following methods:

Electronically: You may submit comments, including attachments, electronically at: *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the online instructions for submitting nominations.

Facsimile: If your comments, including attachments, do not exceed 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Regular mail, express mail, hand delivery, and messenger or courier service: You may submit comments and attachments to the OSHA Docket Office, Docket No. OSHA–2017–0004, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (express mail, hand (courier) delivery, and messenger service) are accepted during the OSHA Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Requests for special accommodations: Submit requests for special accommodations for MACOSH and workgroup meetings by November 1, 2019, to Danielle Watson, Occupational Safety and Health Administration, Directorate of Standards and Guidance, Room N–3609, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210; telephone (202) 693–2222; email *Watson.danielle@dol.gov.*

Instructions: All submissions must include the agency name and the OSHA docket number for this **Federal Register** notice (Docket No. OSHA–2017–0004). Because of security-related procedures, submissions by regular mail may result in a significant delay in receipt. Please contact the OSHA Docket Office for information about security procedures for making submissions by express mail, hand (courier) delivery, and messenger service.

OSHA will place comments and requests to speak, including personal information, in the public docket, which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates.

Docket: To read or download documents in the public docket for this MACOSH meeting, go to *http://www.regulations.gov.* All documents in the public docket are listed in the index; however, some documents (*e.g.,* copyrighted material) are not publicly available to read or download through *http://www.regulations.gov.* All submissions are available for inspection and, when permitted, copying at the OSHA Docket Office at the above address. For information on using *http://www.regulations.gov* to make submissions or to access the docket, click on the ''Help'' tab at the top of the homepage. Contact the OSHA Docket Office for information about materials not available through that website and for assistance in using the internet to locate submissions and other documents in the docket.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone (202) 693–1999; email *meilinger.francis2@dol.gov.*

For general information about MACOSH: Ms. Amy Wangdahl, Director, Office of Maritime and Agriculture, OSHA, U.S. Department of Labor; telephone (202) 693–2066; email: *wangdahl.amy@dol.gov.*

For copies of this **Federal Register** *Notice:* Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, are also available at OSHA's web page at *www.osha.gov.*

SUPPLEMENTARY INFORMATION: Interested persons may attend the workgroup and full Committee meetings at the time and place listed above. The workgroups will discuss protecting workers when working in confined spaces, fire watch safety, hazards associated with preservative coatings during hot work, lashing safety, mechanic safety, and the update/expansion of OSHA training that pertains to maritime safety. The tentative agenda for the full Committee will include: Updates from OSHA National Office Directorates; updates on maritime enforcement activities from OSHA Regions; and reports from the Longshoring and Shipyard workgroups.

Public Participation: Any individual attending the MACOSH meeting, including the workgroup meetings, at the U.S. Department of Labor, Frances Perkins Building, must use the entrance located at 3rd & C Streets NW and pass through Building Security. Attendees must have valid government-issued photo identification to enter the building. Please contact Danielle Watson at (202) 693–1870 (email: *Watson.danielle@dol.gov*) for additional information about building security measures for attending the MACOSH Committee and workgroup meetings. Interested parties may submit a request to make an oral presentation to MACOSH by any one of the methods listed in the **ADDRESSES** section above. The request must state the amount of time requested to speak, the interest represented (*e.g.,* organization name), if any, and a brief outline of the presentation. The MACOSH Chair has discretion to grant requests to address the full Committee as time permits.

Interested parties also may submit written comments, including data and other information, using any one of the methods listed in the **ADDRESSES** section above. OSHA will provide all submissions to MACOSH members prior to the meeting. Individuals who need special accommodations to attend the MACOSH meeting should contact Danielle Watson as specified above under the heading *Requests for special accommodations* in the **ADDRESSES** section.

Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice under the authority granted by 29 U.S.C. 655(b)(1) and 656(b), 5 U.S.C. App. 2, Secretary of Labor's Order No. 1–2012 (77 FR 3912), and 29 CFR part 1912.

Signed at Washington, DC, on October 4, 2019.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2019–23458 Filed 10–25–19; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL LABOR RELATIONS BOARD

Notice of Appointments of Individuals To Serve as Members of Performance Review Boards

AGENCY: National Labor Relations Board.

ACTION: Notice; appointment to serve as members of performance review boards.

SUMMARY: The National Labor Relations Board is issuing this notice that the individuals whose names and position titles appear below have been appointed to serve as members of performance review boards in the National Labor Relations Board for the rating year beginning October 1, 2018 and ending September 30, 2019.

FOR FURTHER INFORMATION CONTACT: Roxanne L. Rothschild, Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570, (202) 273–1940 (this is not a

toll-free number), 1–866–315–6572 (TTY/TDD).

SUPPLEMENTARY INFORMATION:

Name and Title

Christine B. Lucy—Executive Assistant to the Chairman (Chief of Staff), Office of the Chairman
Fred B. Jacob—Solicitor, Office of the Solicitor
Roxanne L. Rothschild—Executive Secretary, Office of the Executive Secretary
Lara Zick—(Alternate)—Deputy Chief Counsel to Member Emanuel
Alice B. Stock—Deputy General Counsel, Office of the General Counsel
Elizabeth Tursell—Associate to the General Counsel, Division of Operations Management
Richard Bock—(Alternate)—Associate General Counsel, Division of Advice

Authority: 5 U.S.C. 4314(c)(4).

By Direction of the Board.

Roxanne L. Rothschild,

Executive Secretary.

[FR Doc. 2019–23438 Filed 10–25–19; 8:45 am]

BILLING CODE 7545–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–8030; email: *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: On September 12, 2019, the National Science Foundation published a notice in the **Federal Register** of permit applications received. The permits were issued on October 12, 2019 (2020–002) and October 21, 2019 (2020–001; 2020–003) to:

1. Sarah Airriess, Permit No. 2020–001
2. Paul Ponganis, Permit No. 2020–002
3. Todd D. Anderson, Permit No. 2020–003

Erika N. Davis,

Program Specialist, Office of Polar Programs.

[FR Doc. 2019–23406 Filed 10–25–19; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–528, 50–529, 50–530, and 72–44; NRC–2019–0214]

Palo Verde Nuclear Generating Station, Units 1, 2, and 3, and Independent Spent Fuel Storage Installation; Consideration of Approval of Transfer of Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for indirect transfer of license; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of an indirect license transfer application filed by the El Paso Electric Company (EPE) on August 13, 2019. The application seeks NRC approval of the indirect transfer of possession-only non-operating interests in Renewed Facility Operating License Nos. NPF–41, NPF–51, and NPF–74 for Palo Verde Nuclear Generating Station (Palo Verde), Units 1, 2, and 3, respectively, and the general license for the Palo Verde Independent Spent Fuel Storage Installation (ISFSI) from EPE to IIF US Holding 2 LP. EPE currently owns a 15.8 percent tenant-in-common interest in and holds possession-only rights in the NRC licenses. The proposed indirect license transfer would result from IIF US Holding 2 LP acquiring 100 percent of the shares in EPE.

DATES: Comments must be filed by November 27, 2019. A request for a hearing must be filed by November 18, 2019.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0214. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Siva P. Lingam, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1564, email: *Siva.Lingam@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0214 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2019–0214.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The application for indirect transfer of the licenses dated August 13, 2019, is available in ADAMS under Accession No. ML19225D197.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2019–0214 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or

entering the comment submissions into ADAMS.

II. Introduction

The NRC is considering the issuance of an order under § 50.80 and § 72.50 of title 10 of the *Code of Federal Regulations* (10 CFR), approving the indirect transfer of Renewed Facility Operating License Nos. NPF–41, NPF–51, and NPF–74 for Palo Verde, Units 1, 2, and 3, respectively, and the general license for the Palo Verde ISFSI. EPE's possession-only non-operating interests in the NRC licenses would be indirectly transferred to IIF US Holding 2 LP.

According to the application filed by EPE, EPE currently owns a 15.8 percent tenant-in-common interest in and holds possession-only rights in the NRC licenses. The proposed indirect license transfer would result from IIF US Holding 2 LP acquiring 100 percent of the shares in EPE. Arizona Public Service Company (APSC) will continue to operate each of the Palo Verde units and the ISFSI. APSC owns a 29.1 percent tenant-in-common interest in and holds both operating and possession rights in the NRC licenses. Further, APSC operates each of the Palo Verde units and the ISFSI pursuant to the operating rights granted to it under the license of each Palo Verde unit. The remaining tenant-in-common co-owners that hold possession-only rights in the NRC licenses are: Salt River Project Agricultural Improvement and Power District (17.49 percent); Southern California Edison Company (15.8 percent); Public Service Company of New Mexico (10.2 percent); Southern California Public Power Authority (5.91 percent); and Los Angeles Department of Water and Power (5.7 percent). The proposed transaction implicates only an indirect upstream change in control over EPE's possession-only rights in the NRC licenses. The proposed transaction does not involve or implicate any change in EPE's rights and obligations under any of the NRC licenses, nor does it implicate APSC's or any other possession-only co-owners' rights and obligations under any of the NRC licenses.

No physical changes or operational changes are being proposed in the application.

The NRC's regulations at 10 CFR 50.80 and 10 CFR 72.50 state that no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the indirect transfer of a license if the Commission determines that the proposed transaction will not affect the qualifications of the licensee to hold the license and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

III. Opportunity To Comment

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and respond, if appropriate, to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the **ADDRESSES** section of this document.

IV. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 20 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 20 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 20 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the

standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

V. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''Cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing

that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

For further details with respect to this application, see the application dated August 13, 2019 (ADAMS Accession No. ML19225D197).

Dated at Rockville, Maryland, this 22nd day of October, 2019.

For the Nuclear Regulatory Commission.

Siva P. Lingam,

Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2019–23421 Filed 10–25–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–1151; NRC–2015–0039]

Westinghouse Electric Company, LLC; Columbia Fuel Fabrication Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of withdrawal of environmental assessment; issuance of draft environmental assessment and draft finding of no significant impact; public meeting and request for comments.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is withdrawing its June 2018 final environmental assessment (EA) and finding of no significant impact (FONSI) concerning the license renewal request from Westinghouse Electric Company, LLC's (WEC) Columbia Fuel Fabrication Facility (CFFF). Because of its withdrawal, the NRC is issuing for public comment a new draft EA and draft FONSI concerning WEC's CFFF. The draft EA, ''Environmental Assessment for the Renewal of SNM–1107, Columbia Fuel Fabrication Facility in Richland County, South Carolina,'' documents the NRC staff's new environmental review of the license renewal application. The NRC is announcing a public meeting and an open house. The public meeting will allow interested members of the public to submit their comments on the draft EA.

DATES: Comments must be filed no later than November 27, 2019. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date. The NRC is announcing a public meeting and an open house. The public meeting will allow interested members of the public to submit their comments.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2015–0039. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.
- *Email comments to: WEC–CFFF–EA@nrc.gov.*

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jessie Muir Quintero, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7476; email: *Jessie.Quintero@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0039 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2015–0039.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2015–0039 in your comment submission. The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov/* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

The NRC is considering a request from WEC (ADAMS Accession No. ML14213A105) for the renewal of Special Nuclear Materials (SNM) license SNM–1107, which if approved, would authorize WEC to continue to operate the CFFF for an additional 40 years. The CFFF is located in Hopkins, South Carolina in Richland County.

In June 2018, the NRC published a final EA that documented the environmental impacts of continued operation of the CFFF for an additional 40 years (ADAMS Accession No. ML18120A318*). Based on the results of the EA, the NRC issued a* FONSI. The NRC noticed issuance of the EA and FONSI on June 15, 2018 (83 FR 28014). Shortly thereafter, in July 2018, there was an equipment leak at the CFFF that resulted in uranium entering the subsurface under the main facility building. In addition, WEC initiated an investigation, under the purview of the South Carolina Department of Health and Environmental Control, into a past leak from a buried pipe that also allowed uranium to enter the subsurface. Because of that new information and public concern about the releases, the NRC decided to re-open its environmental review. Therefore, the EA and FONSI, issued in June 2018, have been withdrawn.

In accordance with the NRC's regulations in part 51 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' that implement the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), the NRC staff has prepared a draft EA documenting its new review of the environmental impacts of continued operation for another 40 years. Based on the environmental review, the NRC has made a preliminary determination that the proposed action will not significantly affect the quality of the human environment, and that a FONSI is therefore appropriate.

By this notice, the NRC is requesting public comment on the draft FONSI and supporting draft EA.

III. Summary of Draft Environmental Assessment

The draft EA is publicly available in ADAMS (ADAMS Accession No. ML19228A278), or at this link: *https://www.nrc.gov/docs/ML1922/ML19228a278.pdf.* A summary description of the proposed action and expected environmental impacts is provided below.

Description of the Proposed Action

The proposed Federal action is approval of WEC's license renewal request, which if granted would allow WEC to continue fabricating low-enriched uranium fuel assemblies at the CFFF and continue to be a source of nuclear fuel for commercial nuclear power plants. The proposed action analyzed in the draft EA is a renewed license term of 40 years, which is the term WEC has requested.

Environmental Impacts of the Proposed Action

In the draft EA, the NRC staff assessed the potential environmental impacts from the proposed license renewal associated with the following resource areas: land use; geology and soils; water resources; ecological resources; cultural resources; air quality; socioeconomics; environmental justice; noise and aesthetics; public and occupational health; transportation; and waste management. The NRC staff also considered the cumulative impacts from past, present, and reasonably foreseeable future actions when combined with the proposed action.

The NRC staff determined that continued CFFF operations would not result in significant environmental impacts. The WEC is not proposing changes in authorized operations or activities. Past and current activities at CFFF have resulted in soil, surface water, and groundwater contamination from radiological and nonradiological contaminants onsite. The WEC has proposed changes to its NRC-required environmental monitoring program, because of the contamination, that would be implemented during the period of the renewed license. The WEC will also implement actions related to the investigation and remediation of contamination and response to future releases under a Consent Agreement with South Carolina Department of Health and Environmental Control.

Environmental Impacts of the Alternatives to the Proposed Action

As one alternative to the proposed action, the NRC staff considered denial of WEC's license renewal request (*i.e.,* the ''no-action'' alternative), where NRC would not approve the license renewal. The CFFF would continue to operate under its current license until it expires in 2027. The NRC staff previously evaluated the environmental impacts of WEC operating until 2027 when it approved WEC's license renewal in 2007. The NRC staff concluded in the 2007 EA that the continued operation of the CFFF would not result in significant impact to the environment (ADAMS Accession No. ML070510647).

As another alternative, the NRC considered approval of WEC's renewal request, but for a duration of less than 40 years. The WEC would continue operating for a period of less than 40 years, resulting in potential impacts that would be similar to those of the proposed action. The impacts from decommissioning would be similar but occur earlier.

IV. Draft FONSI

In accordance with NEPA and 10 CFR part 51, the NRC staff has conducted an environmental review of WEC's request to renew its NRC license SNM–1107 to allow WEC to continue its fuel fabrication operations at the CFFF. Based on its environmental review of the proposed action, as documented in the draft EA, the NRC staff preliminarily determined that granting the requested license renewal would not significantly affect the quality of the human environment. Therefore, the NRC staff makes its preliminary determination, pursuant to 10 CFR 51.31, that the preparation of an environmental impact statement (EIS) is not required for the proposed action and a draft FONSI is appropriate.

The draft FONSI and supporting draft EA are a preliminary analysis of the environmental impacts of the proposed action and its alternatives. Based on comments received on the draft FONSI and draft EA, the staff may publish a final FONSI and final EA, or instead may find that preparation of an EIS is warranted should significant impacts resulting from the proposed action be identified. Should an EIS be warranted, a Notice of Intent to prepare the EIS will be published in the **Federal Register**.

Pursuant to 10 CFR 51.33(a), the NRC staff is making the draft FONSI and draft EA available for public review and comment.

V. Meeting Information

The NRC is announcing that staff will hold a public comment meeting and open house to accept comments on the draft EA. The public meeting will be held on Thursday, November 14, 2019, at the Medallion Conference Center located at 7309 Garners Ferry Road in Columbia, South Carolina. The open house will begin at 5:30 p.m. and the meeting will run from 6:00 p.m. to 8:00 p.m. Persons interested in attending this meeting should check the NRC's Public Meeting Schedule web page at *https://www.nrc.gov/pmns/mtg* for additional information.

Dated at Rockville, Maryland, this 22nd day of October, 2019.

For the Nuclear Regulatory Commission.

John R. Tappert,

Director, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2019–23419 Filed 10–25–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. IA–19–027; NRC–2019–0205]

In the Matter of Mr. Thomas B. Saunders

AGENCY: Nuclear Regulatory Commission.

ACTION: Confirmatory Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued a Confirmatory Order to Mr. Thomas B. Saunders, a former executive of Southern Nuclear Operating Company (SNC). This action is based on an investigation conducted by the NRC Office of Investigations (OI), that concluded Mr. Saunders had a mechanical planner removed from the Vogtle Units 3 and 4 construction site and that Mr. Saunders was aware at that time that the mechanical planner had engaged in protected activity by raising numerous safety-related welding and module fit-up concerns, constituting an apparent violation of NRC regulations.

An Alternative Dispute Resolution mediation session was held on August 15, 2019, during which Mr. Saunders and the NRC reached a preliminary agreement. Subsequently, Mr. Saunders consented to the specific actions listed in Section V of the Confirmatory Order and the NRC agrees to not pursue any further enforcement action in connection with this apparent violation. The Confirmatory Order became effective upon issuance.

DATES: The Confirmatory Order containing the agreements made between Mr. Saunders and the NRC was issued on October 21, 2019.

ADDRESSES: Please refer to Docket ID NRC–2019–0205 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2019–0205. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The Confirmatory Order is available in ADAMS under Accession No. ML19269C005.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: John Harrison, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–9452, email: *john.harrison@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the Confirmatory Order is attached.

Dated at Rockville, Maryland, this 22nd day of October 2019.

For the Nuclear Regulatory Commission.

George A. Wilson,

Director, Office of Enforcement.

Attachment—Confirmatory Order Prohibiting Involvement in NRC-Licensed Activities

United States of America

Nuclear Regulatory Commission

In the Matter of Mr. Thomas B. Saunders.
IA–19–027

Confirmatory Order Effective Upon Issuance

I

Mr. Thomas B. Saunders held the position of Contracts and Procurement Director for Construction at Southern Nuclear Operating Company's (SNC's) Vogtle Electric Generation Plant (Vogtle), Units 3 and 4. SNC is the holder of Combined License Nos. NPF–91 (Vogtle Unit 3) and NPF–92 (Vogtle Unit 4) issued by the U.S. Nuclear Regulatory Commission (NRC), pursuant to Title 10 of the Code of Federal Regulations (10 CFR) Part 52, on February 10, 2012.

This Confirmatory Order (CO) is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on August 15, 2019 in Rockville, Maryland.

II

On November 20, 2018, the NRC Office of Investigations (OI), issued a report (2–2017–032) related to SNC, Vogtle Units 3 and 4, currently under construction. Based on the evidence developed during its investigation, the NRC identified an apparent violation of 10 CFR part 52.5, ''Employee Protection,'' and determined that the apparent violation of 10 CFR 52.5 was willful. A mechanical planner at Vogtle was first employed by Black Diamond Services, a contractor for Chicago Bridge and Iron. During this first period of employment, which spanned part of 2014 and 2015, the employee raised numerous safety-related welding and module fit-up concerns.

The individual returned to Vogtle on July 11, 2017. On July 13, 2017, Mr. Saunders had an SNC official remove the mechanical planner from the site, an apparent violation of 10 CFR 52.5, ''Employee protection.'' At the time he had the mechanical planner removed, Mr. Saunders was aware that the mechanical planner had engaged in protected activity by raising numerous safety-related welding and module fit-up concerns. The mechanical planner was terminated from employment on July 14, 2017.

By letter dated June 12, 2019, the NRC notified Mr. Saunders of the results of the investigation with an opportunity to: (1) Attend a predecisional enforcement conference or (2) to participate in an ADR mediation session in an effort to resolve this this concern.

In response to the NRC's offer, Mr. Saunders requested the use of ADR. On August 15, 2019, the NRC and Mr. Saunders participated in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. The ADR process is one in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement on resolving any differences regarding the dispute. This CO is issued pursuant to the agreement reached during the August 15, 2019, ADR mediation session.

III

During the ADR session, Mr. Saunders and the NRC reached a preliminary settlement agreement. The elements of the agreement include the following:

1. Mr. Saunders acknowledges that a violation of 10 CFR 52.5 (Employee Protection) occurred.

2. Within 120 days from the issuance of the CO, Mr. Saunders will present as an individual or participate in a panel discussion, as applicable, lessons learned regarding the importance of employee protection (to include contractors), why it is necessary to ensure proper follow-up in response, and proper follow-up when evaluating any potentially adverse personnel decisions. Mr. Saunders will submit the presentation materials to the Director, Office of Enforcement, for comment and approval prior to making these presentations. Specifically, Mr. Saunders will present at:

a. Southern Nuclear's new employee orientation training on Employee Protection based on Mr. Saunders' personal case study and will honestly answer questions about what he failed to do (follow STAR, seek advice from management, consult with HR, and engage with the consolidated concerns department).

b. One corporate and one site level leadership meeting at Southern Nuclear on Employee Protection, based on Mr. Saunders' personal case study, and will honestly answer questions about what he failed to do (follow STAR, seek advice from management, consult with HR, and engage with the consolidated concerns department).

In the event that Southern does not agree to have Mr. Saunders make these

presentations, he will inform the Director, Office of Enforcement.

3. Within one year of the issuance of the CO, Mr. Saunders will make presentations at five industry forums, including the following:

- ANS (American Nuclear Society)
- INPO (Institute of Nuclear Power Operations)
- NAYGN (North American Young Generation in Nuclear)
- WIN (Women in Nuclear)

Mr. Saunders will select a fifth industry forum, and will notify the Director, Office of Enforcement, for review and approval of the forum. Mr. Saunders will submit the presentation materials to the Director, Office of Enforcement, for comment and approval prior to making these presentations.

Mr. Saunders will also submit an article for publication to an industry forum. Prior to submission to the industry forum, Mr. Saunders will submit the article to the Director, Office of Enforcement, for review and approval.

4. If asked by the NRC, Mr. Saunders will present at the annual Regulatory Information Conferences Mr. Saunders' personal case study, and honestly answer their questions about what he failed to do (follow STAR, seek advice from management, consult with HR, and engage with the consolidated concerns department) which is the subject of this agreement.

The NRC agrees to not pursue any further enforcement action in connection with the NRC's June 12, 2019 letter to Mr. Thomas B. Saunders.

On October 1, 2019, Mr. Saunders consented to issuing this CO with his commitments, as described in Section V below. Mr. Saunders further agreed that this CO is to be effective upon issuance, the agreement memorialized in this CO settles the matter between the parties, and that he has waived his right to a hearing.

IV

I find that Mr. Saunders' commitments as set forth in Section V below, are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Mr. Saunders' commitments be confirmed by this CO. Based on the above and Mr. Saunders' consent, this CO is effective upon issuance.

V

Accordingly, pursuant to sections 103, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, and 10 CFR part 52, *it is hereby ordered, effective upon the date of issuance, that:*

1. Within 120 days from the issuance of the CO, Mr. Saunders will present as an individual or participate in a panel discussion, as applicable, lessons learned regarding the importance of employee protection (to include contractors), why it is necessary to ensure proper follow-up in response, and proper follow-up when evaluating any potentially adverse personnel decisions. Mr. Saunders will submit the presentation materials to the Director, Office of Enforcement, for comment and approval 14 days prior to making these presentations. Specifically, Mr. Saunders will present at:

a. Southern Nuclear's new employee orientation training on Employee Protection, based on Mr. Saunders' personal case study, and will honestly answer questions about what he failed to do (follow the STAR protocol, *i.e.,* Stop, Think, Act, Review; seek advice from management; consult with the applicable human resources organization (HR); and engage with the consolidated concerns department).

b. One corporate and one site level leadership meeting at Southern Nuclear on Employee Protection, based on Mr. Saunders' personal case study, and will honestly answer questions about what he failed to do (follow STAR, seek advice from management, consult with HR, and engage with the consolidated concerns department).

In the event that Southern does not agree to have Mr. Saunders make these presentations, he will inform the Director, Office of Enforcement.

2. Within one year of the issuance of the CO, Mr. Saunders will make presentations at five industry forums, including the following:

- ANS (American Nuclear Society)
- INPO (Institute of Nuclear Power Operations)
- NAYGN (North American Young Generation in Nuclear)
- WIN (Women in Nuclear)

Mr. Saunders will select a fifth industry forum, and will notify the Director, Office of Enforcement, for review and approval of the forum. If any of the forums listed above do not allow Mr. Saunders to present, Mr. Saunders will notify the Director, Office of Enforcement with a proposed substitute. Mr. Saunders will submit the presentation materials to the Director, Office of Enforcement, for comment and approval 14 days prior to making these presentations.

3. Mr. Saunders will also submit an article for publication to an industry forum. 14 days prior to submission for publication, Mr. Saunders will submit the article to the Director, Office of Enforcement, for review and approval.

4. If asked by the NRC, Mr. Saunders will present at one of the annual Regulatory Information Conferences Mr. Saunders' personal case study, and honestly answer questions about what he failed to do (follow STAR, seek advice from management, consult with HR, and engage with the consolidated concerns department) which is the subject of this agreement.

The Director, Office of Enforcement, or designee, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Saunders of good cause.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this CO, other than Mr. Saunders, may request a hearing within thirty (30) calendar days of the date of issuance of this CO. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene (hereinafter ''petition''), and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign

submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's Public website at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an Order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''Cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

If a person (other than Mr. Saunders) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this CO and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this CO should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this CO without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

For the Nuclear Regulatory Commission

Dated this 21st day of October, 2019.

George A. Wilson,

Director, Office of Enforcement, Nuclear Regulatory Commission.

[FR Doc. 2019–23411 Filed 10–25–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–443; NRC–2019–0207]

NextEra Energy Seabrook, LLC; Seabrook Station, Unit No. 1

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Renewed Facility Operating License No. NPF–86, issued to NextEra Energy Seabrook, LLC, *et al.* (NextEra), for operation of the Seabrook Station, Unit No. 1 (Seabrook). The amendment would extend the allowed outage time for one alternating current (AC) vital panel not energized from its associated inverter from 24

hours to 7 days on a one-time basis. The change would allow NextEra to perform corrective maintenance and testing on vital inverter 1–E, which could challenge the current allowed outage time of 24 hours.

DATES: Submit comments by November 27, 2019. A request for a hearing or petition for leave to intervene must be filed by December 27, 2019.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Website*: Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0207. Address questions about NRC dockets IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Justin C. Poole, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2048; email: *Justin.Poole@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0207 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0207.
- *NRC's Agencywide Documents Access and Management System (ADAMS)*: You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The license amendment request dated October 3, 2019, is available in ADAMS under Accession No. ML19276G055.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2019–0207 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

The NRC is considering issuance of an amendment to Renewed Facility Operating License No. NPF–86, issued to NextEra, for operation of Seabrook, located in Rockingham County, New Hampshire.

The proposed amendment would extend the allowed outage time for one AC vital panel not energized from its associated inverter from 24 hours to 7 days on a one-time basis. The proposed change would allow NextEra to perform corrective maintenance and testing on vital inverter 1–E, which could challenge the current allowed outage time of 24 hours.

Before any issuance of the proposed license amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC's regulations.

The NRC has made a proposed determination that the license amendment request involves no significant hazards consideration. Under the NRC's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change extends the AOT [allowed outage time] for the vital inverter 1–E from 24 hours to 7 days. Vital inverter 1–E does not solely support any risk-significant functions. The failure of an inverter is not an initiator of any analyzed event and does not increase the frequency of an initiating event. Consequently, extending the AOT will not have an impact on the frequency of occurrence of any event previously analyzed. The proposed change does not alter the design, configuration, operation, or function of any plant system, structure, or component. As a result, the outcomes of previously evaluated accidents are unaffected.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed change. The proposed change does not challenge the performance or integrity of any safety-related system. The proposed change neither installs nor removes any plant equipment, nor alters the design, physical configuration, or mode of operation of any plant structure, system, or component. Installed equipment will not be operated in a new or different manner. No physical changes are being made to the plant, so no new accident causal mechanisms are being introduced. Procedures that ensure the unit operates within analyzed limits and procedures that respond to off-normal and emergency conditions are not altered with this proposed change.

Therefore, the proposed change does not create the possibility of a new or different accident from any previously evaluated.

3. The proposed changes do not involve a significant reduction in the margin of safety.

The margin of safety associated with the acceptance criteria of any accident is unchanged. The proposed change does not alter the design, configuration, operation, or function of any plant system, structure, or component. The ability of any operable structure, system, or component to perform its designated safety function is unaffected by this change. Operation with one instrument bus inverter inoperable and the associated instrument bus aligned to its maintenance supply does not result in a significant reduction in the margin of safety.

Surveillance testing of the emergency diesel generators (EDGs) and the electrical distribution system provides confidence that the EDGs will energize the emergency AC buses following a loss of power.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the license amendment request involves a no significant hazards consideration.

The NRC is seeking public comments on this proposed determination that the license amendment request involves no significant hazards consideration. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day notice period if the Commission concludes the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

III. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the

presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''Cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this action, see the application for license amendment dated October 3, 2019.

Attorney for licensee: Debbie Hendell, Managing Attorney, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

NRC Branch Chief: James G. Danna.

Dated at Rockville, Maryland, this 22nd day of October, 2019.

For the Nuclear Regulatory Commission.

Justin C. Poole,

Project Manager, Plant Licensing Branch I, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2019–23420 Filed 10–25–19; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–12 and CP2020–11; MC2020–13 and CP2020–12; MC2020–14 and CP2020–13]

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:* October 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).:* MC2020–12 and CP2020–11; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 124 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 22, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* October 30, 2019.

2. *Docket No(s).:* MC2020–13 and CP2020–12; *Filing Title:* USPS Request to Add Priority Mail Contract 554 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 22, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* October 30, 2019.

3. *Docket No(s).:* MC2020–14 and CP2020–13; *Filing Title:* USPS Request to Add Priority Mail Contract 555 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 22, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* October 30, 2019.

This Notice will be published in the **Federal Register**.

Darcie S. Tokioka,

Acting Secretary.

[FR Doc. 2019–23480 Filed 10–25–19; 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 SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service ™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* October 28, 2019.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service ® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 22, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 124 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–12, CP2020–11.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–23415 Filed 10–25–19; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* October 28, 2019.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby

gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 22, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 555 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–14, CP2020–13.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–23416 Filed 10–25–19; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* October 28, 2019.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 22, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 554 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–13, CP2020–12.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–23414 Filed 10–25–19; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87380; File No. SR–ISE–2019–28]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Period for the Exchange's Nonstandard Expirations Pilot Program

October 22, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 11, 2019, Nasdaq ISE, LLC (''ISE'' 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 Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period for the Exchange's nonstandard expirations pilot program, currently set to expire on November 4, 2019.

The text of the proposed rule change is available on the Exchange's website at *http://ise.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

ISE filed a proposed rule change for the listing and trading on the Exchange, on a twelve month pilot basis, of p.m.-settled options on broad-based indexes with nonstandard expirations dates.[5] The pilot program permits both Weekly Expirations and End of Month (''EOM'') expirations similar to those of the a.m.-settled broad-based index options, except that the exercise settlement value of the options subject to the pilot are based on the index value derived from the closing prices of component stocks. This pilot was extended through May 6, 2019[6] and then subsequently extended through November 4, 2019.[7]

Supplementary Material .07(a) to Options 4A, Section 12 provides that the Exchange may open for trading Weekly Expirations on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration). Weekly Expirations are subject to all provisions of Options 4A, Section 12 and are treated the same as options on the same underlying index that expire on the third Friday of the expiration month. Unlike the standard monthly options, however, Weekly Expirations are p.m.-settled.

Pursuant to Supplementary Material .07(b) to Options 4A, Section 12 the Exchange may open for trading EOM expirations on any broad-based index eligible for standard options trading to expire on the last trading day of the month. EOM expirations are subject to all provisions of Options 4A, Section 12 and treated the same as options on the same underlying index that expire on the third Friday of the expiration month. However, the EOM expirations are p.m.-settled.

The Exchange now proposes to amend Supplementary Material .07(c) to Options4A, Section 12 so that the duration of the pilot program for these nonstandard expirations will be through May 4, 2020. The Exchange continues to have sufficient systems capacity to handle p.m.-settled options on broad-based indexes with nonstandard expirations dates and has not encountered any issues or adverse market effects as a result of listing them. Additionally, there is continued investor interest in these products. The Exchange will continue to make public on its website any data and analysis it submits to the Commission under the pilot program.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 82612 (February 1, 2018), 83 FR 5470 (February 7, 2018) (approving SR–ISE–2017–111) (Order Approving a Proposed Rule Change To Establish a Nonstandard Expirations Pilot Program).

[6] *See* Securities Exchange Act Release No. 85030 (February 1, 2019), 84 FR 2633 (February 7, 2019) (SR–ISE–2019–01) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Nonstandard Expirations Pilot Program).

[7] *See* Securities Exchange Act Release No. 85672 (April 17, 2019), 84 FR 16899 (April 23, 2019) (SR–ISE–2019–11) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Period for the Exchange's Nonstandard Expirations Pilot Program).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange believes the proposed rule change will protect investors and the public interest by providing the Exchange, the Commission and investors the benefit of additional time to analyze nonstandard expiration options. By extending the pilot program, investors may continue to benefit from a wider array of investment opportunities. Additionally, both the Exchange and the Commission may continue to monitor the potential for adverse market effects of p.m.-settlement on the market, including the underlying cash equities market, at the expiration of these options.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Options with nonstandard expirations would be available for trading to all market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[12] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[13] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that investors may continue to trade nonstandard expiration options listed by the Exchange as part of the pilot program on an uninterrupted basis. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the pilot program to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the pilot program. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2019–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2019–28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2019–28 and should be submitted on or before November 18, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–23428 Filed 10–25–19; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87381; File No. SR–Phlx–2019–43]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Period for the Exchange's Nonstandard Expirations Pilot Program

October 22, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 11, 2019, Nasdaq PHLX LLC (''Phlx'' 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 Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period for the Exchange's nonstandard expirations pilot program, currently set to expire on November 4, 2019.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 15, 2017, the Commission approved a proposed rule change for the listing and trading on the Exchange, on a twelve month pilot basis, of p.m.-settled options on broad-based indexes with nonstandard expirations dates.[5] The pilot program permits both Weekly Expirations and End of Month (''EOM'') expirations similar to those of the a.m.-settled broad-based index options, except that the exercise settlement value of the options subject to the pilot are based on the index value derived from the closing prices of component stocks. This pilot was extended through May 6, 2019[6] and then subsequently extended through November 4, 2019.[7]

Pursuant to Phlx Rule 1101A(b)(5)(A) the Exchange may open for trading Weekly Expirations on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration). Weekly Expirations are subject to all provisions of Exchange Rule 1101A and are treated the same as options on the same underlying index that expire on the third Friday of the expiration month. Unlike the standard monthly options, however, Weekly Expirations are p.m.-settled.

Similarly, pursuant to Rule 1101A(b)(5)(B) the Exchange may open for trading EOM expirations on any broad-based index eligible for standard options trading to expire on the last trading day of the month. EOM expirations are subject to all provisions of Rule 1101A and treated the same as options on the same underlying index that expire on the third Friday of the expiration month. However, the EOM expirations are p.m.-settled.

[5] *See* Securities Exchange Act Release No. 82341 (December 15, 2017), 82 FR 60651 (December 21, 2017) (approving SR–Phlx–2017–79) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 1 and Granting Accelerated Approval of Amendment No. 2, of a Proposed Rule Change To Establish a Nonstandard Expirations Pilot Program).

[6] *See* Securities Exchange Act Release No. 84835 (December 17, 2018), 83 FR 65773 (December 21, 2018) (SR–Phlx–2018–80) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Pilot Period for the Exchange's Nonstandard Expirations Pilot Program).

[7] *See* Securities Exchange Act Release No. 85669 (April 17, 2019), 84 FR 16913 (April 23, 2019) (SR–Phlx–2019–13) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Period for the Exchange's Nonstandard Expirations Pilot Program).

The Exchange now proposes to amend Exchange Rule 1101A(b)(5)(C) so that the duration of the pilot program for these nonstandard expirations will be through May 4, 2020. The Exchange continues to have sufficient systems capacity to handle p.m.-settled options on broad-based indexes with nonstandard expirations dates and has not encountered any issues or adverse market effects as a result of listing them. Additionally, there is continued investor interest in these products. The Exchange will continue to make public on its website any data and analysis it submits to the Commission under the pilot program.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange believes the proposed rule change will protect investors and the public interest by providing the Exchange, the Commission and investors the benefit of additional time to analyze nonstandard expiration options. By extending the pilot program, investors may continue to benefit from a wider array of investment opportunities. Additionally, both the Exchange and the Commission may continue to monitor the potential for adverse market effects of p.m.-settlement on the market, including the underlying cash equities market, at the expiration of these options.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Options with nonstandard expirations would be available for trading to all market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [12] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [13] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that investors may continue to trade nonstandard expiration options listed by the Exchange as part of the pilot program on an uninterrupted basis. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the pilot program to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the pilot program. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2019–43 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2019–43. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2019–43 and should be submitted on or before November 18, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–23426 Filed 10–25–19; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87382; File No. SR–NYSEArca–2019–04]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, To Amend NYSE Arca Rule 5.2–E(j)(3) To Adopt Generic Listing Standards for Investment Company Units Based on an Index or Portfolio of Municipal Securities

October 22, 2019.

I. Introduction

On February 8, 2019, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'' or the ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt generic listing standards for Investment Company Units (''Units'') based on an index or portfolio of municipal securities. The proposed rule change was published for comment in the **Federal Register** on February 27, 2019.[3] On April 9, 2019, pursuant to Section 19(b)(2) of the Exchange Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On May 28, 2019, the Commission instituted proceedings under Section 19(b)(2)(B) of the Exchange Act [6] to determine whether to approve or disapprove the proposed rule change.[7]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 85170 (Feb. 21, 2019), 84 FR 6451.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 85573, 84 FR 15239 (Apr. 15, 2019). The Commission designated May 28, 2019, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 85946, 84 FR 25599 (June 3, 2019).

On August 13, 2019, the Commission further extended the period for consideration of the proposed rule change to October 25, 2019.[8] On September 27, 2019, NYSE Arca filed Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change as originally filed.[9] On October 2, 2019, NYSE Arca filed Amendment No. 2 to the proposed rule change, which replaced and superseded the proposed rule change as modified by Amendment No. 1.[10] On October 10, 2019, the Exchange filed Amendment No. 3 to the proposed rule change, which replaced and superseded the proposed rule change as modified by Amendment No. 2.[11] The Commission has received no comments on the proposal.

The Commission is publishing this notice and order to solicit comments from interested persons on the proposed rule change, as modified by Amendment No. 3, and is approving the proposed rule change, as modified by Amendment No. 3, on an accelerated basis.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 3 [12]

NYSE Arca Rule 5.2–E(j)(3) permits the Exchange to list a series of Units based on an index or portfolio of underlying securities. Currently, NYSE Arca Rule 5.2–E(j)(3) includes generic listing standards for Units based on an index or portfolio of equity or fixed income securities or a combination thereof.

Municipal Securities [13] are a type of fixed income security, and therefore currently the Exchange may generically list and trade Units overlying an index or portfolio of Municipal Securities that satisfies the criteria of Commentary .02 to NYSE Arca Rule 5.2–E(j)(3). According to the Exchange, however, indexes and portfolios of Municipal Securities typically do not satisfy one of those requirements—namely, that components comprising at least 75% of the Fixed Income Securities [14] portion of the weight of the index or portfolio each shall have a minimum original principal amount outstanding of $100 million or more.[15] The Exchange states that Municipal Securities are generally issued with individual maturities of relatively small size, although they generally are constituents of a much larger municipal bond offering.[16]

A. Proposed Commentary .02A to NYSE Arca Rule 5.2–E(j)(3)

1. Applicability

Proposed Commentary .02A to NYSE Arca Rule 5.2–E(j)(3) provides generic listing standards for Units based on an index or portfolio comprised solely of Municipal Securities or Municipal Securities and cash. Because the current Commentary .02 to NYSE Arca Rule 5.2–E(j)(3) also applies to Units based on an index or portfolio of Municipal Securities, the Exchange represents that it would apply existing Commentary .02 and proposed Commentary .02A in a ''waterfall'' manner.[17] Initially, the Exchange would evaluate the eligibility of a series of Units based on an index or portfolio of Municipal Securities (or Municipal Securities and cash) for listing pursuant to the generic listing standards of Commentary .02; if the underlying index or portfolio satisfies those criteria, the Exchange would list and trade the Units pursuant to that rule.[18] If, however, Units whose underlying index or portfolio of Municipal Securities does not satisfy all of the requirements of Commentary .02, the Exchange would apply proposed Commentary .02A.[19]

2. Proposed Generic Listing Standards

The Exchange states that Commentary .02A to NYSE Arca Rule 5.2–E(j)(3) includes many requirements that are more stringent than those applicable to an index or portfolio of fixed-income securities and cash. These heightened requirements, according to the Exchange, would deter potential manipulation of such Municipal Securities indices, even though the index or portfolio may include securities that have smaller original principal amounts outstanding than required under the existing Commentary .02 to NYSE Arca Rule 5.2–E(j)(3). The proposed quantitative requirements described below would apply on both an initial and continued basis to a Municipal Securities index or portfolio underlying a series of Units.

a. Original Principal Amount Outstanding

As mentioned above, according to the Exchange, Municipal Securities are typically issued with individual maturities of relatively small size, although they generally are constituents of a much larger municipal bond offering.[20] In recognition of these smaller offering sizes, the Exchange proposes to reduce the minimum original principal amount outstanding requirement for component securities from at least $100 million to at least $5 million.[21] The Exchange also proposes that qualifying securities must be issued as part of a transaction of at least $20 million.[22] Lastly, the Exchange proposes to increase the percentage weight of an index or portfolio that must satisfy the original principal amount outstanding requirement from 75% to 90%.[23]

The Exchange asserts that reducing the minimum original principal amount outstanding requirement for component securities will not make an index or portfolio more susceptible to manipulation.[24] The Exchange believes that its proposal to require that 90% of the weight of a Municipal Securities index or portfolio meet the original principal amount outstanding requirement (as opposed to 75% for fixed-income indices) will deter potential manipulation by ensuring that a greater portion of the index or portfolio meet this minimum size requirement.[25] The Exchange also notes that the Commission previously approved the listing and trading of Units where components comprising at least 90% of the weight of the underlying index have a minimum original principal amount outstanding of at least $5 million and are issued as

[8] *See* Securities Exchange Act Release No. 86643, 84 FR 42963 (Aug. 19, 2019).

[9] Amendment No. 1 is available at: *https://www.sec.gov/comments/sr-nysearca-2019-04/srnysearca201904-6224879-192613.pdf.*

[10] Amendment No. 2 is available at: *https://www.sec.gov/comments/sr-nysearca-2019-04/srnysearca201904-6245350-192767.pdf.*

[11] In Amendment No. 3, the Exchange: (1) Clarified that its proposed requirement that an underlying index or portfolio must include a minimum of 13 ''non-affiliated'' issuers means a minimum of 13 ''unique'' issuers; (2) corrected the numbering of one provision of the proposed rule text; (3) made a conforming change within Commentary .03 to NYSE Arca Rule 5.2–E(j)(3); (4) prohibited its listing of Units issued by an open-end management investment company that seeks to provide investment results, before fees and expenses, in an amount that exceeds −300% of the percentage performance on a given day of an index of Municipal Securities (as defined below); and (5) conformed its description of the scope of Commentary .03 to NYSE Arca Rule 5.2–E(j)(3) to the rule text. Amendment No. 3 is available at: *https://www.sec.gov/comments/sr-nysearca-2019-04/srnysearca201904-6283314-193347.pdf.*

[12] For a full description of the proposed rule change, *see* Amendment No. 3, *supra* note 11.

[13] The proposed rule defines the term ''Municipal Securities'' by incorporating the definition in Section 3(a)(29) of the Act. *See* Amendment No. 3, *supra* note 11, at 4 n.4.

[14] ''Fixed Income Securities'' are defined in Commentary .02 to NYSE Arca Rule 5.2–E(j)(3).

[15] *See* Amendment No. 3, *supra* note 11, at 4 n.5.

[16] *See* Amendment No. 3, *supra* note 11, at 4 n.5.

[17] *See id.* at 5.

[18] *See id.* at 5–6.

[19] *See* proposed Commentary .02A to NYSE Arca Rule 5.2–E(j)(3).

[20] *See supra* note 16 and accompanying text.

[21] *See* Amendment No. 3, *supra* note 11, at 6.

[22] *See id.*

[23] *See id.*

[24] *See id.* at 7.

[25] *See id.* at 7–8.

part of a transaction of at least $20 million.[26]

b. Component Concentration

The Exchange proposes to reduce the maximum weight that any individual Municipal Security, and a group of five Municipal Securities, may comprise in a Municipal Securities index or portfolio.[27] The current generic listing standards for Units based on a fixed-income index or portfolio permit individual component securities to account for up to 30% of the weight of such index or portfolio and the top-five weighted component securities to account for up to 65% of the weight of such index or portfolio.[28] The Exchange proposes to reduce these thresholds to 10% for individual Municipal Securities and 30% for the five most heavily-weighted Municipal Securities in an index or portfolio.[29] The Exchange believes that this requirement will reduce the susceptibility to manipulation of a Municipal Securities index or portfolio underlying a series of Units.[30]

c. Issuer Diversification

The current generic listing standards for Units based on an index or portfolio of Fixed Income Securities do not include an issuer diversification requirement for indices comprised solely of Municipal Securities.[31]

The Exchange proposes a generic listing criterion that would require an index or portfolio of Municipal Securities or Municipal Securities and cash to include securities from at least 13 unique issuers.[32] The Exchange states that requiring such diversification will reduce the likelihood that an index or portfolio may be manipulated by ensuring that securities from a variety of issuers are represented in an index or portfolio of Municipal Securities.[33]

d. Minimum Number of Components

The current generic listing standards applicable to an index or portfolio of Fixed Income Securities do not require a minimum number of components.[34] In the proposed Commentary .02A to NYSE Arca Rule 5.2–E(j)(3), the Exchange proposes to require that an index or portfolio of Municipal Securities contain at least 500 component securities.[35] The Exchange asserts that this proposed requirement will ensure that a Municipal Securities index or portfolio would be sufficiently broad-based and diversified to make it less susceptible to manipulation.[36]

e. Listing of Units With Inverse Leveraged Exposure to an Index of Municipal Securities

Consistent with the requirement for an index or portfolio of Fixed Income Securities under the current Commentary .02 to NYSE Arca Rule 5.2–E(j)(3), the Exchange would not list Units issued by an open-end management investment company that seeks to provide investment results, before fees and expenses, in an amount that exceeds −300% of the percentage performance on a given day of an index of Municipal Securities.[37]

f. Additional Requirements

In addition to the quantitative requirements described above, the Exchange proposes to adopt additional rules related to: (1) Index methodology and calculation; (2) dissemination of information; (3) initial shares outstanding; (4) hours of trading; (5) surveillance procedures; and (6) disclosures.

The Exchange proposes Commentary .02A(b) to NYSE Arca Rule 5.2–E(j)(3), which requires that: (i) If a Municipal Securities index is maintained by a broker-dealer or fund advisor, the broker-dealer or fund advisor shall erect and maintain a ''firewall'' around the personnel who have access to information concerning changes and adjustments to the index; (ii) the current index value for Units listed pursuant to proposed Commentary .02A(a) to NYSE Arca Rule 5.2–E(j)(3) will be widely disseminated by one or more major market data vendors at least once per day and, if the index value does not change during some or all of the period when trading is occurring on the NYSE Arca Marketplace, the last official calculated index value must remain available throughout NYSE Arca Marketplace trading hours; and (iii) any advisory committee, supervisory board, or similar entity that advises a Reporting Authority[38] or that makes decisions on the index composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable Municipal Securities index.[39]

The Exchange proposes Commentary .02A(c) to NYSE Arca Rule 5.2–E(j)(3), which requires that one or more major market data vendors shall disseminate for each series of Units based on an index or portfolio of Municipal Securities an estimate, updated at least every 15 seconds during the Core Trading Session, of the value of a share of each series (the ''Intraday Indicative Value'' or ''IIV'').[40] The Intraday Indicative Value may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value.[41] The Intraday Indicative Value may be calculated by the Exchange or by an independent third party throughout the day using prices obtained from independent market data providers or other independent pricing sources such as a broker-dealer or price evaluation services.[42] If the Intraday Indicative Value does not change during some or all of the period when trading is occurring on the Exchange, then the last official calculated Intraday Indicative Value must remain available throughout Exchange trading hours.[43]

The Exchange proposes Commentary .02A(d) to NYSE Arca Rule 5.2–E(j)(3), which requires that a minimum of 100,000 shares of a series of Units will be required to be outstanding at commencement of trading.[44]

The Exchange proposes Commentary .02A(e) to NYSE Arca Rule 5.2–E(j)(3), which specifies that the hours of trading for the Units will be as governed by NYSE Arca Rule 7.34–E(a).[45]

The Exchange proposes Commentary .02A(f) to NYSE Arca Rule 5.2–E(j)(3), which specifies that Units that are listed

[26] *See, e.g.,* Securities Exchange Act Release No. 84049 (Sep. 6, 2018), 83 FR 46228 (Sep. 12, 2018) (SR–NYSEArca–2018–38) (order approving, among other things, revisions to the continued listing criteria applicable to the iShares New York AMT-Free Muni Bond ETF).

[27] *See* Amendment No. 3, *supra* note 11, at 8.

[28] *See id.*

[29] *See id.*

[30] *See id.*

[31] Commentary .02(a)(5) to NYSE Arca Rule 5.2–E(j)(3) provides that an index or portfolio—other than one consisting entirely of exempted securities—must include securities from at least 13 non-affiliated issuers. Municipal Securities are included in the definition of exempted securities. Accordingly, the requirement related to 13 non-affiliated issuers does not apply to Municipal Securities. *See* Section 3(a)(12) of the Act.

[32] *See* Amendment No. 3, *supra* note 11, at 9.

[33] *See id.*

[34] *See id.*

[35] *See id.*

[36] *See id.* at 10.

[37] *See* proposed Commentary .02A to NYSE Arca Rule 5.2–E(j)(3).

[38] ''Reporting Authority'' is defined in NYSE Arca Rule 5.1–E(b)(16). *See* Amendment No. 3, *supra* note 11, at 11 n.14.

[39] *See* Amendment No. 3, *supra* note 11, at 10–11.

[40] *See id.* at 11.

[41] *See id.*

[42] *See id.*

[43] *See id.*

[44] *See id.*

[45] *See id.*

or traded pursuant to unlisted trading privileges will be subject to the Exchange's written surveillance procedures.[46]

Lastly, proposed Commentary .02A(g) to NYSE Arca Rule 5.2–E(j)(3) incorporates the information circular requirement of Commentary .01(g) NYSE Arca Rule 5.2–E(j)(3).[47]

B. Proposed Amendments to Commentary .03 to NYSE Arca Rule 5.2–E(j)(3)

The Exchange also proposes to amend Commentary .03 to NYSE Arca Rule 5.2–E(j)(3) to allow the generic listing and trading of Units based on a combination of two or more types of indexes, including a combination index that includes Municipal Securities.[48] Currently, the scope of the rule allows the Exchange to generically list Units overlying a combination of indexes or an index or portfolio of component securities representing: (1) The U.S. or domestic equity market; (2) the international equity market; *and* (3) the fixed income market. To the extent that an index or portfolio of Municipal Securities is included in a combination, the proposed rule specifies that the Municipal Securities index or portfolio must satisfy all requirements of Commentary .02A to NYSE Arca Rule 5.2–E(j)(3).[49] Further, the Exchange's proposed rule would provide that it would not list Units issued by an open-end management investment company that seeks to provide investment results, before fees and expenses, in an amount that exceeds −300% of the percentage performance on a combination of indices that include a Municipal Securities Index.[50] The Exchange also proposes other conforming changes to Commentary .03 to specify that the current requirements related to index value dissemination and related continued listing standards will apply to indexes of Municipal Securities.[51]

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 3, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[52] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[53] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

With respect to the quantitative requirements of Commentary .02A to NYSE Arca Rule 5.2–E(j)(3), the proposed original principal amount outstanding requirement is lower than what is currently applicable to Units based on an index or portfolio of Fixed Income Securities. The Commission notes, however, that the other proposed quantitative requirements (*i.e.,* component concentration, issuer diversification, and minimum number of components) are stricter than the existing generic listing requirements. Accordingly, the Commission believes that, taken together, the proposed Commentary .02A is sufficiently designed to prevent fraudulent and manipulative acts and practices. Specifically, the Commission believes that the generic listing requirements for an index or portfolio of Municipal Securities should help to ensure that an index underlying a series of Units will be sufficiently large, not concentrated, and diversified to prevent manipulation of that benchmark. The Commission further notes that it has previously approved proposed listing and trading of exchange traded funds with similar quantitative standards and those funds have not raised concerns regarding manipulation.[54]

The Commission also finds that the other proposed provisions of Commentary .02A to NYSE Arca Rule 5.2–E(j)(3) and the proposed amendments to Commentary .03 to NYSE Arca Rule 5.2–E(j)(3) are consistent with the Act. The provisions in the proposed Commentary .02A governing index methodology and calculation, dissemination of information, minimum number of shares outstanding at the commencement of trading, hours of trading, surveillance procedures, and information circulars are consistent with the existing requirements applicable to Units based on an index of U.S. fixed-income securities. Further, the proposed amendments to Commentary .03 are designed to extend the requirements related to the generic listing and trading of Units based on a combination of two or more types of indexes to an index of Municipal Securities.

In support of its proposal, the Exchange represents the following:

(1) Units listed pursuant to proposed Commentary .02A to NYSE Arca Rule 5.2–E(j)(3) will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[55] 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 applicable federal securities laws.[56] FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares with other markets that are members of the Intermarket Surveillance Group (''ISG'') or with which the Exchange has in place a comprehensive surveillance sharing agreement.[57] FINRA also can access data obtained from the MSRB relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares.[58] FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by a Fund reported to FINRA's Trade Reporting and Compliance Engine.[59]

(2) Units listed pursuant to the proposed generic listing rule will comply with all other requirements applicable to Units including, but not limited to, the applicable rules governing the trading of equity securities, trading hours, trading halts, surveillance, information barriers and the Information Bulletin to ETP Holders, as set forth in Exchange rules applicable to Units.[60]

(3) The Exchange has in place surveillance procedures relating to trading in the Units 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.[61] In addition, investors will have ready access to information regarding the IIV and quotation and last-sale information for the Units. Trade price and other information relating to municipal bonds is available through EMMA.[62]

This approval order is based on all of the Exchange's representations, including those set forth above. For the foregoing reasons, the Commission finds

[46] *See id.*

[47] *See id.* at 42.

[48] *See id.* at 10.

[49] *See id.*

[50] *See id.*

[51] *See id.*

[52] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[53] 15 U.S.C. 78f(b)(5).

[54] The Commission has previously approved the listing and trading of Units overlying municipal securities indices that satisfy the proposed initial and continued generic listing criteria. *See, e.g.,* Securities Exchange Act Releases No. 82295 (Dec. 12, 2017), 82 FR 60056 (Dec. 18, 2017) (SR–NYSEArca–2017–56) and 84049, *supra* note 25.

[55] *See* Amendment No. 3, *supra* note 11, at 12.

[56] *See id.*

[57] *See id.*

[58] *See id.*

[59] *See id.*

[60] *See id.* at 13.

[61] *See id.* at 14.

[62] *See id.*

that the proposed rule change, as modified by Amendment No. 3, is consistent with Section 6(b)(5) of the Act[63] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Solicitation of Comments on Amendment No. 3 to the Proposed Rule Change

Interested persons are invited to submit written views, data, and arguments concerning whether Amendment No. 3 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–2019–04 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–2019–04. 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–2019–04 and should be submitted on or before November 18, 2019.

V. Accelerated Approval of the Proposed Rule Change, as Modified by Amendment No. 3

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 3, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 3 in the **Federal Register**. The Commission notes that Amendment No. 3 narrowed the scope of the proposal by prohibiting the of listing Units issued by an open-end management investment company that seeks to provide investment results, before fees and expenses, in an amount that exceeds −300% of the percentage performance on a given day of an index of Municipal Securities. Amendment No. 3 also provided useful clarifications and corrections. The changes and additional information in Amendment No. 3 assisted the Commission in evaluating the Exchange's proposal and in determining that the proposed amendments to NYSE Arca Rule 5.2–E(j)(3) are consistent with the Act. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[64] to approve the proposed rule change, as modified by Amendment No. 3, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[65] that the proposed rule change (SR–NYSEArca–2019–04), as modified by Amendment No. 3, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[66]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–23427 Filed 10–25–19; 8:45 am]

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[63] 15 U.S.C. 78f(b)(5).

[64] 15 U.S.C. 78s(b)(2).

[65] 15 U.S.C. 78s(b)(2).

[66] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87379; File No. SR–ISE–2019–27)

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Period To Permit the Listing and Trading of Options Based on ⅕ the Value of the Nasdaq-100 Index

October 22, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 11, 2019, Nasdaq ISE, LLC (''ISE'' 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 Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot to permit the listing and trading of options based on ⅕ the value of the Nasdaq-100 Index (''Nasdaq-100'') currently set to expire on November 4, 2019.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

ISE filed a proposed rule change to permit the listing and trading of index options on the Nasdaq 100 Reduced Value Index (''NQX'') on a twelve month pilot basis.[5]

NQX options trade independently of and in addition to NDX options, and the NQX options are subject to the same rules that presently govern the trading of index options based on the Nasdaq-100, including sales practice rules, margin requirements, trading rules, and position and exercise limits. Similar to NDX, NQX options are European-style and cash-settled, and have a contract multiplier of 100. The contract specifications for NQX options mirror in all respects those of the NDX options contract listed on the Exchange, except that NQX options are based on of the value of the Nasdaq-100, and are P.M.-settled pursuant to Options 4A, Section 12(a)(6).

The Exchange proposes to amend ISE Options 4A, Section 12(a)(6) to extend the current NQX pilot period to May 4, 2020. This pilot was previously extended to November 4, 2019.[6] The Exchange continues to have sufficient capacity to handle additional quotations and message traffic associated with the proposed listing and trading of NQX options. In addition, index options are integrated into the Exchange's existing surveillance system architecture and are thus subject to the relevant surveillance processes. The Exchange also continues to have adequate surveillance procedures to monitor trading in NQX options thereby aiding in the maintenance of a fair and orderly market. Additionally, there is continued investor interest in these products and this extension will provide additional time to collect data related to the pilot.

Pilot Report

The Exchange currently makes public on its website the data and analysis previously submitted to the Commission on the Pilot Program and will continue to make public any data or analysis it submits under the Pilot Program in the future. If in the future the Exchange proposes an additional extension of the Pilot Program or proposes to make the Pilot Program permanent, the Exchange will submit an annual report to the Commission consistent with the order approving the establishment of the Pilot Program at least two months prior to the expiration date of the Pilot Program. Conditional on the findings in the Pilot Report, the Exchange will file with the Commission a proposal to extend the pilot program, adopt the pilot program on a permanent basis or terminate the pilot.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. By extending the pilot, the Exchange believes it will attract order flow to the Exchange, increase the variety of listed options, and provide a valuable hedge tool to retail and other investors. Specifically, the Exchange believes that the pilot will provide additional trading and hedging opportunities for investors while providing the Commission with data to monitor for and assess any potential for adverse market effects of allowing P.M.-settlement for NQX options, including on the underlying component stocks.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. NQX options would be available for trading to all market participants and therefore would not impose an undue burden on intra-market competition. The Exchange believes that the proposed rule change will not impose an undue burden on inter-market competition as this rule change will continue to facilitate the listing and trading of a new option product that will enhance competition among market participants, to the benefit of investors and the marketplace. The continued listing of NQX will enhance competition by providing investors with an additional investment vehicle, in a fully-electronic trading environment, through which investors can gain and hedge exposure to the Nasdaq-100. Furthermore, this product could offer a competitive alternative to other existing investment products that seek to allow investors to gain broad market exposure. Finally, it is possible for other exchanges to develop or license the use of a new or different index to compete with the Nasdaq-100 and seek Commission approval to list and trade options on such an index.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[11] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that investors may continue to trade NQX options listed by the Exchange as part of the pilot program on an uninterrupted basis. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the pilot program to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the pilot program. Accordingly, the Commission hereby waives the operative delay and

[5] *See* Securities Exchange Act Release No. 82911 (March 20, 2018), 83 FR 12966 (March 26, 2018) (SR–ISE–2017–106) (Approval Order).

[6] *See* Securities Exchange Act Release No. 86071 (June 10, 2019), 84 FR 27822 (June 14, 2019) (SR–ISE–2019–18) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot To Permit the Listing and Trading of Options Based on ⅕ the Value of the Nasdaq-100 Index).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

designates the proposed rule change operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ISE–2019–27 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2019–27. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2019–27 and should be submitted on or before November 18, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–23425 Filed 10–25–19; 8:45 am]

BILLING CODE 8011–01–P

[13] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87378; File No. SR–BOX–2019–30]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule on the BOX Options Market LLC (''BOX'') Facility for Complex Order Transactions

October 22, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 10, 2019, BOX Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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 the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule on the BOX Options Market LLC (''BOX'') facility. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxexchange.com.*

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 for trading on BOX. The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is one of 16 options venues to which market participants may direct their order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participant can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

In response to this competitive environment, the Exchange has established a Make/Take pricing model for Complex Orders which was intended to attract Complex Orders to the Exchange by offering market participants incentives (*i.e.* maker or taker credits) to submit their Complex Orders to the Exchange, which could result in greater overall liquidity on BOX, ultimately benefiting all Participants trading on the Exchange. These Make/Take pricing models have been accepted by both the Commission and the industry.[5] The result of this structure is that a Participant does not know the fee it will be charged when submitting the Complex Order. Therefore, the Participant must recognize that it could be charged the highest applicable fee on the Exchange's Complex Order schedule, which may, instead be lowered or changed to a credit depending upon how the Complex Order interacts.

Proposal

The Exchange proposes to adjust certain fees and credits within the Complex Order pricing structure. Specifically, the Exchange proposes to increase the maker and taker credits for Public Customers interacting with Professional Customers/Broker Dealers or Market Makers in both Penny and Non-Penny Pilot Classes. Here, the Exchange proposes to increase the credit Public Customers receive when interacting with Professional Customers, Broker Dealers or Market Makers, regardless of whether they are adding or removing liquidity to $0.50 from $0.35 (Penny Pilot Classes) and to $0.90 from $0.70 (Non-Penny Pilot Classes).

The Exchange also proposes to adjust the Maker credits and Taker fees for Professional Customers or Broker Dealers in both Penny Pilot and Non-Penny Pilot Classes. Specifically, when a Professional Customer or Broker Dealer interacts with a Public Customer in a Penny Pilot Class, the Exchange proposes to raise this fee to $0.50 from $0.45 for making liquidity and to $0.50 from $0.45 for taking liquidity. For Non-Penny Pilot Classes, the Exchange proposes to raise the fees in this same type of interaction to $0.98 from $0.80 for making liquidity and to $0.98 from $0.80 for taking liquidity. For when a Professional Customer or Broker Dealer interacts with another Professional Customer or Broker Dealer in Penny Pilot Classes, the Exchange proposes to raise the credit for making liquidity to $0.30 from $0.10 and raise the fee for taking liquidity to $0.50 from $0.30. For Non-Penny Pilot Classes, the Exchange proposes to raise the fees and credits in this same type of interaction. Specifically, the Exchange proposes to raise the credit for making liquidity to $0.30 from $0.10 and increase the fee for taking liquidity to $1.00 from $0.45. For when a Professional Customer or Broker Dealer interacts with a Market Maker in Penny Pilot Classes, the Exchange proposes to raise the credit for making liquidity to $0.30 from $0.10 and increase the fee for taking liquidity to $0.50 from $0.30. For Non-Penny Pilot Classes the Exchange proposes to raise the fees and credits in this same type of interaction. Specifically, the Exchange proposes to increase the credit for making liquidity to $0.30 from $0.10 and increase the fee for taking liquidity to $1.00 from $0.45.

The Exchange also proposes to adjust the Maker and Taker fees and credits for Market Makers in both Penny Pilot and Non-Penny Pilot Classes. Specifically, when a Market Maker interacts with a Public Customer in a Penny Pilot Class, the Exchange proposes to raise the fee to $0.50 from $0.40 for making liquidity and to $0.50 from $0.40 for taking liquidity. For Non-Penny Pilot Classes, the Exchange proposes to raise the fees in this same type of interaction to $0.98 from $0.75 for making liquidity and to $0.98 from $0.75 for taking liquidity. For when a Market Maker interacts with a Professional Customer or Broker Dealer in Penny Pilot Classes, the Exchange proposes to raise the credit for making liquidity to $0.30 from $0.10 and raise the fee for taking liquidity to $0.50 from $0.30. For Non-Penny Pilot Classes, the Exchange proposes to raise the fees and credits in this same type of interaction. Specifically, the Exchange proposes to raise the credit for making liquidity to $0.30 from $0.10 and increase the fee for taking liquidity to $1.00 from $0.45. For when a Market Maker interacts with another Market Maker in Penny Pilot Classes, the Exchange proposes to raise the credit for making liquidity to $0.30 from $0.10 and increase the fee for taking liquidity to $0.50 from $0.30. For Non-Penny Pilot Classes, the Exchange proposes to raise the fees and credits in this same type of interaction. Specifically, the Exchange proposes to increase the credit for making liquidity to $0.30 from $0.10 and increase the fee for taking liquidity to $1.00 from $0.45.

The revised Complex Order Pricing Structure will be as follows:

Account type	Contra party	Penny pilot classes		Non-penny pilot classes	
		Maker fee/ credit	Taker fee/ credit	Maker fee/ credit	Taker fee/ credit
Public Customer	Public Customer	$0.00	$0.00	$0.00	$0.00
	Professional Customer/Broker Dealer.	(0.50)	(0.50)	(0.90)	(0.90)
	Market Maker	(0.50)	(0.50)	(0.90)	(0.90)
Professional Customer or Broker Dealer.	Public Customer	0.50	0.50	0.98	0.98
	Professional Customer/Broker Dealer.	(0.30)	0.50	(0.30)	1.00
	Market Maker	(0.30)	0.50	(0.30)	1.00
Market Maker	Public Customer	0.50	0.50	0.98	0.98
	Professional Customer/Broker Dealer.	(0.30)	0.50	(0.30)	1.00
	Market Maker	(0.30)	0.50	(0.30)	1.00

[5] The ''Make/Take'' model is currently used by Nasdaq ISE LLC (''ISE') and NASDAQ PHLX LLC (''PHLX'').

The Exchange next proposes to amend Section IV (Complex Order Transaction Fees) of the BOX Fee Schedule to establish a $0.12 per contract surcharge on any electronic non-Public Customer Complex Order that executes against an electronic Public Customer Complex Order (the ''Complex Surcharge''). The Exchange notes that the proposed Complex Surcharge is consistent with charges imposed by other options exchanges.[6]

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5)of the Act,[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

Complex Order Transaction Fees

The Exchange believes that amending the Complex Order pricing structure is reasonable, equitable and not unfairly discriminatory. The fee structure for Complex Order Transactions has been well received by Participants and the industry since it was adopted in 2016,[8] and the Exchange believes it is now appropriate to adjust certain fees and credits in order to remain competitive with other options exchanges in the industry. As discussed above, the Complex Order fee structure is generally intended to attract order flow to the Exchange by offering all market participants incentives to submit their Complex Orders to the Exchange.

The Exchange believes that the proposed increase in the amount of credits for Public Customer Complex Orders are reasonable. Under the proposed fee structure, Public Customers will either receive a $0.50 credit for making or taking liquidity in Penny Pilot Classes when interacting with a Professional Customer, Broker Dealer or Market Maker or receive a $0.90 credit for making or taking liquidity in Non-Penny Pilot Classes when interacting with a Professional Customer, Broker Dealer or Market Maker. Public Customers will continue to be charged no fee when interacting with another Public Customer. The Exchange believes providing an increased credit and charging no fee to Public Customers for Complex Orders is equitable and not unfairly discriminatory. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for Public Customer benefit. Accordingly, the Exchange believes that charging no fee or providing a credit for Public Customers is appropriate and not unfairly discriminatory. Public Customers are less sophisticated than other Participants and the proposed increased credit will help to attract a high level of Public Customer order flow to the BOX Book and create liquidity, which the Exchange believes will ultimately benefit all Participants trading on BOX.

The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to give Public Customers a credit when their Complex Order executes against a non-Public Customer and, accordingly, charge non-Public Customers a higher fee when their Complex Order executes against a Public Customer. As stated above, the Exchange aims to improve markets by developing features for the benefit of its Public Customers. Similar to the payment for order flow and other pricing models that have been adopted by the Exchange and other exchanges to attract Public Customer order flow, the Exchange increases fees to non-Public Customers to provide incentives for Public Customers. The Exchange believes that providing incentives for Complex Orders by Public Customers is reasonable and, ultimately, will benefit all Participants trading on the Exchange by attracting Public Customer order flow.

The Exchange believes that the proposed fees and credits for Professional Customers and Broker Dealers in Complex Orders are reasonable. Under the proposed fee structure, a Professional Customer or Broker Dealer making liquidity and interacting with a Public Customer will be charged $0.50 in Penny Pilot Classes and $0.98 in Non-Penny Pilot Classes. Further, Professional Customers or Broker Dealers making liquidity and interacting with another Professional Customer, Broker Dealer or Market Maker will be credited $0.30 for Complex Orders in Penny Pilot Classes. If the Professional Customer or Broker Dealer is instead taking liquidity and interacting with another Professional Customer, Broker Dealer or Market Maker, they will be charged $0.50 for Complex Orders in Penny Pilot Classes. For Complex Orders in Non-Penny Pilot Classes, the Professional Customer or Broker Dealer will be charged $0.98 if the Complex Order interacts with a Public Customer's Complex Order in the Non-Penny Pilot Classes. Further, Professional Customers and Broker Dealers will be credited $0.30 when making liquidity in Non-Penny Pilot Classes and interacting with another Professional Customer, Broker Dealer or Market Maker. Lastly, Professional Customers and Broker Dealers taking liquidity in Non-Penny Pilot Classes will be charged $1.00 if the Complex Order interacts with a Professional Customer or Broker Dealer or a Market Maker.

The Exchange believes that charging Professional Customers and Broker Dealers higher fees than Public Customers for Complex Orders is equitable and not unfairly discriminatory. Professional Customers, while Public Customers by virtue of not being Broker Dealers, generally engage in trading activity more similar to Broker Dealer proprietary trading accounts (submitting more than 390 standard orders per day on average). The Exchange believes that the higher level of trading activity from these Participants will draw a greater amount of BOX system resources than that of nonprofessional, Public Customers. Because this higher level of trading activity will result in greater ongoing operational costs, the Exchange aims to recover its costs by assessing Professional Customers and Broker Dealers higher fees for transactions.

Finally, the Exchange believes that the proposed fees for Market Makers in Complex Orders are reasonable. Under the proposed fee structure, a Market Maker making or taking liquidity and interacting with a Public Customer will be charged $0.50 for Complex Orders in Penny Pilot Classes. A Market Maker making liquidity and interacting with a Professional Customer, Broker Dealer or Market Marker will be credited $0.30 for Complex Orders in both Penny Pilot Classes and Non-Penny Pilot Classes. If the Market Maker is instead taking liquidity, for Complex Orders in Penny Pilot Classes it will be charged $0.50 if the Complex Order interacts with a Professional Customer or Broker Dealer or a Market Maker. For Market Maker Complex Orders making or taking liquidity and interacting with a Public Customer in Non-Penny Pilot Classes, the Market Maker will be charged $0.98. Further, Market Makers will be credited $0.30 when making liquidity in Non-Penny Pilot Classes and interacting with another Professional Customer or Broker

[6] *See* NYSE American LLC (''NYSE American'') Fee Schedule (imposing a $0.12 per contract surcharge to certain complex orders). *See also* Miami Securities International Exchange, LLC (''MIAX'') fee schedule (imposing a $0.12 fee on certain complex orders).

[7] 15 U.S.C. 78f(b)(4) and (5).

[8] *See* Securities Exchange Act Release No. 77568 (April 8, 2016), 81 FR 22151 (April 14, 2016) (SRBOX–2016–15.

Dealer or Market Maker. Lastly, Market Makers taking liquidity in Non-Penny Pilot Classes will be charged $1.00 if the Complex Order interacts with a Professional Customer or Broker Dealer or a Market Maker.

The Exchange believes it is equitable and not unfairly discriminatory for BOX Market Makers to be assessed the same fees as Professional Customers and Broker Dealers as the proposed change will provide uniformity throughout the Complex Order pricing structure for non-Public Customers which will provide clarity and reduce investor confusion.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory for Professional Customers, Broker Dealers and Market Makers to be charged a higher fee for orders removing liquidity when compared to the credit they receive for orders that add liquidity. Giving a credit to Complex Orders that add liquidity will promote liquidity on the Exchange and ultimately benefit all participants on BOX. Further, the concept of incentivizing orders that add liquidity over orders that remove liquidity is commonly accepted within the industry as part of the ''Make/Take'' liquidity model.[9]

Finally, the Exchange also believes it is reasonable to charge Professional Customers, Broker Dealers, and Market Makers less for certain executions in Penny Pilot issues compared to Non-Penny Pilot issues because these classes are typically more actively traded; assessing lower fees will further incentivize order flow in Penny Pilot issues on the Exchange, ultimately benefiting all Participants trading on BOX. Additionally, the Exchange believes it is reasonable to give a greater credit to Public Customers for Complex Orders in Non-Penny Pilot issues as compared to Penny Pilot issues. Since these classes have wider spreads and are less actively traded, giving a larger credit will further incentivize Public Customers to trade in these classes, ultimately benefitting all Participants trading on BOX.

The Exchange believes that the proposed Complex Order fee structure will keep the Exchange competitive with other exchanges and will be applied in an equitable manner among all BOX Participants. The Exchange believes the proposed fee structure is reasonable and competitive with fee structures in place on other exchanges. Further, the Exchange believes that the competitive marketplace impacts the fees proposed for BOX.

Complex Surcharge

The Exchange believes the proposed Complex Surcharge is reasonable, equitable and not unfairly discriminatory, as it applies to all non-Public Customer orders. Applying the surcharge to all market participants except Public Customers is equitable and not unfairly discriminatory because Public Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Public Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of Market Makers in turn facilities tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

In addition, the proposed Complex Surcharge is reasonable, equitable, and not unfairly discriminatory as it is consistent with fees charged by other options exchanges.[10] Specifically, NYSE American imposes a $0.12 per contract surcharge to any electronic non-customer complex order that executes against a customer complex order which may result in an overall per contract fee of $0.62.[11] The Exchange notes that the proposed Complex Surcharge of $0.12 is identical to the surcharges imposed on both NYSE American and MIAX. In addition, the Exchange believes that the proposed surcharge is not new or novel as it incorporates aspects of the surcharges that are already imposed on NYSE American and MIAX.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed Complex Surcharge would not impose an unfair burden on competition as it is consistent with fees charged by other exchanges.[12] Further, the Exchange believes that amending certain Complex Order fees and credits will enhance competition between exchanges because it is designed to allow the Exchange to better compete with other exchanges for Complex Order flow.

In addition, the proposal does not impose an undue burden on intra-market competition because the changes will apply equally to all similarly situated Participants. Further, the Exchange does not believe the proposed changes impose a unnecessary burden on intra-market competition, as they are merely designed to allow the Exchange to stay competitive within the industry where Participants already pay similar fees at other competitor exchanges.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing exchanges. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believe that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act[13] and Rule 19b–4(f)(2) thereunder,[14] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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.

[9] The ''Make/Take'' model is currently used by Nasdaq ISE LLC (''ISE') and NASDAQ PHLX LLC (''PHLX'').

[10] *See supra* note 6.

[11] *Id.* On NYSE American, NYSE American Market Makers have a potential total per contract fee of $0.62 in the Penny Pilot classes which includes a ''Rate Per Contract for Electronic Transactions,'' a per contract ''Marketing Charge,'' and a $0.12 complex order surcharge. NYSE American Broker Dealers also have a potential total per contract fee of $0.62 in the Penny Pilot classes which includes a ''Rate Per Contract for Electronic Transactions'' and the complex surcharge. Similarly, on MIAX, Market Makers who qualify for Tier 1 of the Market Maker Sliding Scale fee structure have a potential total per contract fee of $0.62 which includes a $0.25 ''Complex Per Contract Fee for Penny Classes,'' a $.25 per contract ''Marketing Fee,'' and a $0.12 ''Per Contract Surcharge for Trading Against a Priority Customer Complex Order for Penny and Non-Penny Classes.''

[12] *See supra* notes 6 and 11.

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 240.19b–4(f)(2).

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–BOX–2019–30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2019–30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2019–30, and should be submitted on or before November 18, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–23424 Filed 10–25–19; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2019–0041]

Notice Announcing Addresses for Service of Process

AGENCY: Social Security Administration.

ACTION: Notice announcing addresses for summons and complaints.

SUMMARY: Our Office of the General Counsel (OGC) is responsible for processing and handling summonses and complaints in lawsuits involving judicial review of our final decisions on individual claims for benefits under titles II, VIII, and XVI of the Social Security Act (Act), and individual claims for a Medicare Part D subsidy under title XVIII of the Act. This notice sets out the names and current addresses of those offices and the jurisdictions for which each office has responsibility.

FOR FURTHER INFORMATION CONTACT: David Mansfield, Office of the General Counsel, Office of Program Law, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6404, (410) 966–2305. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: You should mail summonses and complaints in cases involving judicial review of our final decisions on individual claims for benefits under titles II, VIII, and XVI of the Act and individual claims for a Medicare Part D subsidy under title XVIII of the Act directly to the OGC location responsible for the jurisdiction in which the complaint has been filed. This notice replaces the notice we published on December 12, 2018 (83 FR 63962), and reflects the current jurisdictional assignments for our Regional Chief Counsels' Offices and our Office of Program Law. The changes in this notice from our 2018 notice reflect the relocation and new mailing address of the Office of the Regional Chief Counsel, Dallas (Region VI), and an indication that summonses and complaints in cases involving judicial review of final decisions on individual claims for a Medicare Part D subsidy should be served in the same manner described in this notice. The jurisdictional responsibilities, names, and addresses of our OGC offices are as follows:

Alabama

U.S. District Court—Middle District of Alabama: Office of the Regional Chief Counsel, Atlanta (Region IV).
U.S. District Court—Northern District of Alabama: Office of the Regional Chief Counsel, Atlanta (Region IV).
U.S. District Court—Southern District of Alabama: Office of the Regional Chief Counsel, Atlanta (Region IV).

Alaska

U.S. District Court—Alaska: Office of the Regional Chief Counsel, Seattle (Region X).

Arizona

U.S. District Court—Arizona: Office of the Regional Chief Counsel, San Francisco (Region IX).

Arkansas

U.S. District Court—Eastern District of Arkansas: Office of the Regional Chief Counsel, Dallas (Region VI).
U.S. District Court—Western District of Arkansas: Office of the Regional Chief Counsel, Dallas (Region VI).

California

U.S. District Court—Central District of California: Office of the Regional Chief Counsel, San Francisco (Region IX).
U.S. District Court—Eastern District of California: Office of the Regional Chief Counsel, San Francisco (Region IX).
U.S. District Court—Northern District of California: Office of the Regional Chief Counsel, San Francisco (Region IX).
U.S. District Court—Southern District of California: Office of the Regional Chief Counsel, San Francisco (Region IX).

Colorado

U.S. District Court—Colorado: Office of the Regional Chief Counsel, Denver (Region VIII).

Connecticut

U.S. District Court—Connecticut: Office of the Regional Chief Counsel, New York (Region II).

Delaware

U.S. District Court—Delaware: Office of the Regional Chief Counsel, Philadelphia (Region III).

District of Columbia

U.S. District Court—District of Columbia: Office of the Regional Chief Counsel, Philadelphia (Region III).

Florida

U.S. District Court—Middle District of Florida: Office of the Regional Chief Counsel, Atlanta (Region IV).
U.S. District Court—Northern District of Florida: Office of the Regional Chief Counsel, Atlanta (Region IV).

U.S. District Court—Southern District of Florida: Office of the Regional Chief Counsel, Atlanta (Region IV).

Georgia

U.S. District Court—Middle District of Georgia: Office of the Regional Chief Counsel, Atlanta (Region IV).
U.S. District Court—Northern District of Georgia: Office of the Regional Chief Counsel, Atlanta (Region IV).
U.S. District Court—Southern District of Georgia: Office of the Regional Chief Counsel, Atlanta (Region IV).

Guam

U.S. District Court—Guam: Office of the Regional Chief Counsel, San Francisco (Region IX).

Hawaii

U.S. District Court—Hawaii: Office of the Regional Chief Counsel, San Francisco (Region IX).

Idaho

U.S. District Court—Idaho: Office of the Regional Chief Counsel, Seattle (Region X).

Illinois

U.S. District Court—Central District of Illinois: Office of the Regional Chief Counsel, Chicago (Region V).
U.S. District Court—Northern District of Illinois: Office of the Regional Chief Counsel, Chicago (Region V).
U.S. District Court—Southern District of Illinois: Office of the Regional Chief Counsel, Chicago (Region V).

Indiana

U.S. District Court—Northern District of Indiana: Office of Program Law, Baltimore.
U.S. District Court—Southern District of Indiana: Office of the Regional Chief Counsel, Chicago (Region V).

Iowa

U.S. District Court—Northern District of Iowa: Office of the Regional Chief Counsel, Dallas (Region VI).
U.S. District Court—Southern District of Iowa: Office of the Regional Chief Counsel, Dallas (Region VI).

Kansas

U.S. District Court—Kansas: Office of the Regional Chief Counsel, Denver (Region VIII).

Kentucky

U.S. District Court—Eastern District of Kentucky: Office of the Regional Chief Counsel, Denver (Region VIII).
U.S. District Court—Western District of Kentucky: Office of the Regional Chief Counsel, Chicago (Region V).

Louisiana

U.S. District Court—Eastern District of Louisiana: Office of the Regional Chief Counsel, Dallas (Region VI).
U.S. District Court—Middle District of Louisiana: Office of the Regional Chief Counsel, Dallas (Region VI).
U.S. District Court—Western District of Louisiana: Office of the Regional Chief Counsel, Dallas (Region VI).

Maine

U.S. District Court—Maine: Office of the Regional Chief Counsel, Boston (Region I).

Maryland

U.S. District Court—Maryland: Office of Program Law, Baltimore.

Massachusetts

U.S. District Court—Massachusetts: Office of the Regional Chief Counsel, Boston (Region I).

Michigan

U.S. District Court—Eastern District of Michigan: Office of the Regional Chief Counsel, Boston (Region I).
U.S. District Court—Western District of Michigan: Office of the Regional Chief Counsel, Kansas City (Region VII).

Minnesota

U.S. District Court—Minnesota: Office of the Regional Chief Counsel, Dallas (Region VI).

Mississippi

U.S. District Court—Northern District of Mississippi: Office of the Regional Chief Counsel, Dallas (Region VI).
U.S. District Court—Southern District of Mississippi: Office of the Regional Chief Counsel, Dallas (Region VI).

Missouri

U.S. District Court—Eastern District of Missouri: Office of the Regional Chief Counsel, Kansas City (Region VII).
U.S. District Court Western District of Missouri: Office of the Regional Chief Counsel, Kansas City (Region VII).

Montana

U.S. District Court—Montana: Office of the Regional Chief Counsel, Seattle (Region X).

Nebraska

U.S. District Court—Nebraska: Office of the Regional Chief Counsel, Dallas (Region VI).

Nevada

U.S. District Court—Nevada: Office of the Regional Chief Counsel, San Francisco (Region IX).

New Hampshire

U.S. District Court—New Hampshire: Office of the Regional Chief Counsel, Boston (Region I).

New Jersey

U.S. District Court—New Jersey: Office of the Regional Chief Counsel, Philadelphia (Region III).

New Mexico

U.S. District Court—New Mexico: Office of the Regional Chief Counsel, Denver (Region VIII).

New York

U.S. District Court—Eastern District of New York: Office of the Regional Chief Counsel, New York (Region II).
U.S. District Court—Northern District of New York: Office of the Regional Chief Counsel, New York (Region II).
U.S. District Court—Southern District of New York: Office of the Regional Chief Counsel, New York (Region II).
U.S. District Court—Western District of New York: Office of the Regional Chief Counsel, New York (Region II).

North Carolina

U.S. District Court—Eastern District of North Carolina: Office of Program Law, Baltimore.
U.S. District Court—Middle District of North Carolina: Office of the Regional Chief Counsel, Philadelphia (Region III).
U.S. District Court—Western District of North Carolina: Office of Program Law, Baltimore.

North Dakota

U.S. District Court—North Dakota: Office of the Regional Chief Counsel, Dallas (Region VI).

Northern Mariana Islands

U.S. District Court—Northern Mariana Islands: Office of the Regional Chief Counsel, San Francisco (Region IX).

Ohio

U.S. District Court—Northern District of Ohio: Office of the Regional Chief Counsel, Chicago (Region V).
U.S. District Court—Southern District of Ohio: Office of the Regional Chief Counsel, Chicago (Region V).

Oklahoma

U.S. District Court—Eastern District of Oklahoma: Office of the Regional Chief Counsel, Denver (Region VIII).
U.S. District Court—Northern District of Oklahoma: Office of the Regional Chief Counsel, Denver (Region VIII).
U.S. District Court—Western District of Oklahoma: Office of the Regional Chief Counsel, Denver (Region VIII).

Oregon

U.S. District Court—Oregon: Office of the Regional Chief Counsel, Seattle (Region X).

Pennsylvania

U.S. District Court—Eastern District of Pennsylvania: Office of the Regional Chief Counsel, Philadelphia (Region III).
U.S. District Court—Middle District of Pennsylvania: Office of the Regional Chief Counsel, Philadelphia (Region III).
U.S. District Court—Western District of Pennsylvania: Office of the Regional Chief Counsel, Philadelphia (Region III).

Puerto Rico

U.S. District Court—Puerto Rico: Office of the Regional Chief Counsel, New York (Region II).

Rhode Island

U.S. District Court—Rhode Island: Office of the Regional Chief Counsel, Boston (Region I).

South Carolina

U.S. District Court—South Carolina: Office of the Regional Chief Counsel, Philadelphia (Region III).

South Dakota

U.S. District Court—South Dakota: Office of the Regional Chief Counsel, Dallas (Region VI).

Tennessee

U.S. District Court—Eastern District of Tennessee: Office of the Regional Chief Counsel, Kansas City (Region VII).
U.S. District Court—Middle District of Tennessee: Office of the Regional Chief Counsel, Kansas City (Region VII).
U.S. District Court—Western District of Tennessee: Office of the Regional Chief Counsel, Kansas City (Region VII).

Texas

U.S District Court—Eastern District of Texas: Office of the Regional Chief Counsel, Dallas (Region VI).
U.S. District Court—Northern District of Texas: Office of the Regional Chief Counsel, Dallas (Region VI).
U.S. District Court—Southern District of Texas: Office of the Regional Chief Counsel, Dallas (Region VI).
U.S. District Court—Western District of Texas: Office of the Regional Chief Counsel, Dallas (Region VI).

Utah

U.S. District Court—Utah: Office of the Regional Chief Counsel, Denver (Region VIII).

Vermont

U.S. District Court—Vermont: Office of the Regional Chief Counsel, New York (Region II).

Virgin Islands

U.S. District Court—Virgin Islands: Office of the Regional Chief Counsel, New York (Region II).

Virginia

U.S. District Court—Eastern District of Virginia: Office of the Regional Chief Counsel, Philadelphia (Region III).
U.S. District Court—Western District of Virginia: Office of the Regional Chief Counsel, Philadelphia (Region III).

Washington

U.S. District Court—Eastern District of Washington: Office of the Regional Chief Counsel, Seattle (Region X).
U.S. District Court—Western District of Washington: Office of the Regional Chief Counsel, Seattle (Region X).

West Virginia

U.S. District Court—Northern District of West Virginia: Office of the Regional Chief Counsel, Philadelphia (Region III).
U.S. District Court—Southern District of West Virginia: Office of the Regional Chief Counsel, Philadelphia (Region III).

Wisconsin

U.S. District Court—Eastern District of Wisconsin: Office of the Regional Chief Counsel, Chicago (Region V).
U.S. District Court—Western District of Wisconsin: Office of the Regional Chief Counsel, Chicago (Region V).

Wyoming

U.S. District Court—Wyoming: Office of the Regional Chief Counsel, Denver (Region VIII).

Addresses of OGC Offices

Office of the Regional Chief Counsel, Region I, Social Security Administration, JFK Federal Building, Room 625, 15 New Sudbury Street, Boston, MA 02203–0002
Office of the Regional Chief Counsel, Region II, Social Security Administration, 26 Federal Plaza, Room 3904, New York, NY 10278–0004
Office of the Regional Chief Counsel, Region III, Social Security Administration, 300 Spring Garden Street, 6th Floor, Philadelphia, PA 19123–2932
Office of the Regional Chief Counsel, Region IV, Social Security Administration, Sam Nunn Atlanta Federal Center, 61 Forsyth Street SW, Suite 20T45, Atlanta, GA 30303–8910
Office of the Regional Chief Counsel, Region V, Social Security Administration, 200 West Adams Street, 30th Floor, Chicago, IL 60606–5208
Office of the Regional Chief Counsel, Region VI, Social Security Administration, 1301 Young Street, Ste. 340, Mailroom 104, Dallas, TX 75202–5433
Office of the Regional Chief Counsel, Region VII, Social Security Administration, Richard Bolling Federal Building, 601 E. 12th Street, Room 965, Kansas City, MO 64106–2898
Office of the Regional Chief Counsel, Region VIII, Social Security Administration, 1961 Stout Street, Suite 4169, Denver, CO 80294–4003
Office of the Regional Chief Counsel, Region IX, Social Security Administration, 160 Spear Street, Suite 800, San Francisco, CA 94105–1545
Office of the Regional Chief Counsel, Region X, Social Security Administration, 701 Fifth Avenue, Suite 2900, M/S 221A, Seattle, WA 98104–7075
Office of Program Law, Office of the General Counsel, Social Security Administration, 6401 Security Boulevard, Altmeyer Building, Room 617, Baltimore, MD 21235–6401

Andrew Saul,

Commissioner of Social Security.

[FR Doc. 2019–23478 Filed 10–25–19; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 10871]

30-Day Notice of Proposed Information Collection: Disclosure of Violations of the Arms Export Control Act

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 November 27, 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.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Andrea Battista, Directorate of Defense Trade Controls, Department of State, who may be reached at *battistaAL@state.gov* or 202–663–3136.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Disclosure of Violations of the Arms Export Control Act.
- *OMB Control Number:* 1405–0179.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* T/PM/DDTC.
- *Form Number:* DS–7787.
- *Respondents:* Individuals and companies engaged in the business of exporting or temporarily importing defense hardware of defense technology data who have committed an ITAR violation.
- *Estimated Number of Respondents:* 12,500.
- *Estimated Number of Responses:* 700.
- *Average Time per Response:* 10 hours.
- *Total Estimated Burden Time:* 7,000 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Voluntary.

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 Directorate of Defense Trade Controls (DDTC), located in the Political-Military Affairs Bureau of the Department of State, encourages voluntary disclosures of violations of the Arms Export Control Act (AECA) (22 U.S.C. 2751 *et seq.*), its implementing regulations, the International Traffic in Arms Regulations (ITAR) (22 CFR 120–130), and any regulation, order, license, or other authorization issued thereunder. The information disclosed is analyzed by DDTC to ultimately determine whether to take administrative action concerning any violation that may have occurred. Voluntary disclosure may be considered a mitigating factor in determining the administrative penalties, if any, that may be imposed. Failure to report a violation may result in circumstances detrimental to the U.S. national security and foreign policy interests and will be an adverse factor in determining the appropriate disposition of such violations. Also, the activity in question might merit referral to the Department of Justice for consideration of whether criminal prosecution is warranted. In such cases, DDTC will notify the Department of Justice of the voluntary nature of the disclosure, but the Department of Justice is not required to give that fact any weight.

ITAR § 127.12 enunciates the information which should accompany a voluntary disclosure. Historically, respondents to this information collection submitted their disclosures to DDTC in writing via hard copy documentation. However, as part of an IT modernization project designed to streamline the collection and use of information by DDTC, a discrete form has been developed for the submission of voluntary disclosures. This will allow both DDTC and respondents submitting a disclosure to more easily track submissions.

Methodology

This information will be collected by electronic submission.

Karen Wrege,

Chief Information Officer.

[FR Doc. 2019–23442 Filed 10–25–19; 8:45 am]

BILLING CODE 4710–25–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36301]

Oakland Global Rail Enterprise, LLC—Acquisition Exemption—Rail Line in Alameda County, Cal.

Oakland Global Rail Enterprise, LLC (OGRE), has filed a verified notice of exemption under 49 CFR 1150.31 for authority after-the-fact to acquire by sublease from Oakland Bulk & Oversized Terminal, LLC (OBOT), approximately 15,000 lineal feet of rail line (located within approximately 11.5 acres of rail right of way) at the former Oakland Army Base (OAB) in Alameda County, Cal. (the Line).[1] OGRE states that the length of the Line includes parallel tracks running within the rail right-of-way, and that the Line does not have milepost designations.

According to OGRE, the City of Oakland leased to OBOT, an affiliate of OGRE, an existing railroad right-of-way located at the OAB, a portion of which includes the Line. OGRE subleased the railroad right-of-way from OBOT on June 26, 2018, with the intent to rehabilitate the rail line within that right-of-way in order to provide rail service to the rail-to-ship bulk commodity marine terminal OBOT plans to build at the OAB. OGRE states that it is not seeking authority to operate the Line at this time but that in the near future it plans to seek operating authority for what will be its entire rail line, which will encompass track in addition to the Line.

OGRE certifies that the projected annual revenues as a result of this transaction will not exceed the amount that would qualify OGRE as a Class III railroad, and that the projected annual revenue for the Line will not exceed $5 million. OGRE also states that its agreement with OBOT does not contain any provision that would prohibit, restrict, or otherwise limit future interchange with any third-party carrier.

This exemption will become effective on November 11, 2019.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than November 4, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36301, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on OGRE's representative, Kathryn Kusske Floyd, Venable LLP, 600 Massachusetts Avenue NW, Washington, DC 20001.

According to OGRE, this action is categorically excluded from environmental review under 49 CFR. 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov*.

Decided: October 23, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Raina Contee,

Clearance Clerk.

[FR Doc. 2019–23511 Filed 10–25–19; 8:45 am]

BILLING CODE 4915–01–P

[1] As explained more fully in previous decisions in this docket, OGRE filed its verified notice in response to the Board's decision in *Oakland Global Rail Enterprise—Petition for Declaratory Order,* FD 36168 (STB served Mar. 15, 2019), and thereafter, the effective date of the exemption was postponed pending further order of the Board. Concurrent with the publication of this notice, the Board is serving a decision denying a petition by the City of Oakland to reject or revoke OGRE's verified notice and making the exemption effective on November 11, 2019. *See Oakland Glob. Rail Enter.—Acquis. Exemption—Rail Line in Alameda Cty., Cal.,* FD 36301 et al. (STB served October 28, 2019).

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36302]

Oakland Bulk & Oversize Terminal, LLC—Acquisition Exemption—Rail Line in Alameda County, Cal.

Oakland Bulk & Oversize Terminal, LLC (OBOT), has filed a verified notice of exemption under 49 CFR 1150.31 for authority after-the-fact to acquire by lease from the City of Oakland (City) approximately 15,000 lineal feet of rail line (located within approximately 11.5 acres of rail right of way) at the former Oakland Army Base (OAB) in Alameda County, Cal. (the Line).[1] The length of

[1] As explained more fully in previous decisions in this docket, OBOT filed its verified notice in response to the Board's decision in *Oakland Global Rail Enterprise—Petition for Declaratory Order,* FD 36168 (STB served Mar. 15, 2019), and thereafter, the effective date of the exemption was postponed pending further order of the Board. Concurrent with

the Line includes parallel tracks running within the rail right-of-way. OBOT states that the Line does not have milepost designations.

According to OBOT, on February 16, 2016, the City leased to OBOT an existing railroad right-of-way located at the OAB, a portion of which includes the Line. Oakland Global Rail Enterprise, LLC (OGRE), an affiliate of OBOT, then subleased the railroad right-of-way from OBOT with the intent to rehabilitate the rail line within that right-of-way in order to provide rail service to the rail-to-ship bulk commodity marine terminal OBOT plans to build at the OAB. OBOT states that OGRE will be the operator of the Line.

OBOT certifies that the projected annual revenues as a result of this transaction will not exceed the amount that would qualify OBOT as a Class III railroad, and that the projected annual revenue for the Line will not exceed $5 million. OBOT also states that its agreement with the City does not contain any provision that would prohibit, restrict, or otherwise limit future interchange with any third-party carrier.

This exemption will become effective on November 11, 2019.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than November 4, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36302, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on OBOT's representative, Kathryn Kusske Floyd, Venable LLP, 600 Massachusetts Avenue NW, Washington, DC 20001.

According to OBOT, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov*.

Decided: October 23, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Raina Contee,

Clearance Clerk.

[FR Doc. 2019–23513 Filed 10–25–19; 8:45 am]

BILLING CODE 4915–01–P

the publication of this notice, the Board is serving a decision denying a petition by the City to reject or revoke OBOT's verified notice and making the exemption effective on November 11, 2019. *See Oakland Glob. Rail Enter.—Acquis. Exemption—Rail Line in Alameda Cty., Cal.,* FD 36301 et al. (STB served October 28, 2019).

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36303]

City of Oakland, Cal.—Acquisition Exemption—Former Oakland Army Base, Alameda County, Cal.

The City of Oakland, Cal. (the City), has filed a verified notice of exemption under 49 CFR 1150.31 for authority after-the-fact to acquire from the U.S. Army approximately 15,000 feet of track situated within City-owned areas of the former Oakland Army Base (OAB) in the City of Oakland, Alameda County, Cal. (the Line).[1] The City states that it is not aware that the Line has milepost numbers.

According to the City, it acquired the Line, through its predecessors-in-interest Oakland Base Reuse Authority and Oakland Redevelopment Agency, in a series of fee and easement transactions between 2003 and 2012. The City states that, at the time of the acquisition, it was not aware that the OAB contained trackage subject to the jurisdiction of the Board and did not seek Board authority to acquire the Line. The City states that it previously had entered into an agreement with Oakland Bulk & Oversized Terminal, LLC (OBOT) permitting OBOT to conduct ''rail activities,'' and that OBOT in turn ''subleased rail activities to [Oakland Global Rail Enterprise, LLC].'' According to the City, however, both agreements were terminated effective November 23, 2018. The City states that it will contract with a third-party operator for the Line ''once there is demonstrated demand and funding for rail service.''[2]

The City certifies that its revenues from freight operations will not result in the creation of a Class I or Class II carrier. The City also states that no interchange agreements are involved in the subject transaction.

This exemption will become effective on November 11, 2019.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than November 4, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36303, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on the City's representative, Charles A. Spitulnik, Kaplan Kirsch & Rockwell LLP, 1634 I (Eye) Street NW, Suite 300, Washington, DC 20006.

According to the City, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: October 23, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Raina Contee,

Clearance Clerk.

[FR Doc. 2019–23512 Filed 10–25–19; 8:45 am]

BILLING CODE 4915–01–P

[1] As explained more fully in previous decisions in this docket, the City filed its verified notice in response to the Board's decision in *Oakland Global Rail Enterprise—Petition for Declaratory Order,* FD 36168 (STB served Mar. 15, 2019), and thereafter, the effective date of the exemption was postponed pending further order of the Board. Concurrent with the publication of this notice, the Board is serving a decision making the exemption effective on November 11, 2019. *See Oakland Glob. Rail Enter.—Acquis. Exemption—Rail Line in Alameda Cty., Cal.,* FD 36301 et al. (STB served October 28, 2019).

[2] The City states that it never has had any intention of holding itself out as a common carrier by rail or providing rail service itself on the Line. In general, however, acquiring a rail line imposes a common carrier obligation to provide service upon reasonable request. *See, e.g., Groome & Assoc., Inc.* v. *Greenville Cty. Econ. Dev. Corp.,* NOR 42087, slip op. at 10 (STB served July 27, 2005).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Product Exclusions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of product exclusions.

SUMMARY: In September 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately $200 billion as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology

transfer, intellectual property, and innovation. The U.S. Trade Representative initiated a product exclusion process in June 2019, and interested persons have submitted requests for the exclusion of specific products. This notice announces the U.S. Trade Representative's determination to grant certain exclusion requests, as specified in the annex to this notice.

DATES: The product exclusions announced in this notice will apply as of the September 24, 2018, effective date of the $200 billion action, to August 7, 2020.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Assistant General Counsels Philip Butler or Megan Grimball, or Director of Industrial Goods Justin Hoffmann at (202) 395–5725. For specific questions on customs classification or implementation of the product exclusions identified in the annex to this notice, contact *traderemedy@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see the prior notices issued in the investigation, including 82 FR 40213 (August 23, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 33608 (July 17, 2018), 83 FR 38760 (August 7, 2018), 83 FR 47974 (September 21, 2018), 83 FR 49153 (September 28, 2018), 83 FR 65198 (December 19, 2018), 84 FR 7966 (March 5, 2019), 84 FR 20459 (May 9, 2019), 84 FR 29576 (June 24, 2019), 84 FRN 38717 (August 7, 2019), 84 FR 46212 (September 3, 2019), and 84 FR 49591 (September 20, 2019).

Effective September 24, 2018, the U.S. Trade Representative imposed additional 10 percent duties on goods of China classified in 5,757 full and partial subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of $200 billion. *See* 83 FR 47974, as modified by 83 FR 49153. In May 2019, the U.S. Trade Representative increased the additional duty to 25 percent. *See* 84 FR 20459. On June 24, 2019, the Trade Representative established a process by which U.S. stakeholders can request exclusion of particular products classified within an 8-digit HTSUS subheading covered by the $200 billion action from the additional duties. *See* 84 FR 29576 (the June 24 notice).

Under the June 24 notice, requests for exclusion had to identify the product subject to the request in terms of the physical characteristics that distinguish it from other products within the relevant 8-digit subheading covered by the $200 billion action. Requestors also had to provide the 10-digit subheading of the HTSUS most applicable to the particular product requested for exclusion, and could submit information on the ability of U.S. Customs and Border Protection to administer the requested exclusion. Requestors were asked to provide the quantity and value of the Chinese-origin product that the requestor purchased in the last three years. With regard to the rationale for the requested exclusion, requests had to address the following factors:

- Whether the particular product is available only from China and specifically whether the particular product and/or a comparable product is available from sources in the United States and/or third countries.
- Whether the imposition of additional duties on the particular product would cause severe economic harm to the requestor or other U.S. interests.
- Whether the particular product is strategically important or related to ''Made in China 2025'' or other Chinese industrial programs.

The June 24 notice stated that the U.S. Trade Representative would take into account whether an exclusion would undermine the objective of the Section 301 investigation.

The June 24 notice required submission of requests for exclusion from the $200 billion action no later than September 30, 2019, and noted that the U.S. Trade Representative would periodically announce decisions. In August 2019, the U.S. Trade Representative granted an initial set of exclusion requests. *See* 84 FR 38717. The U.S. Trade Representative granted a second round of exclusions in September 2019. *See* 84 FR 49591. The Office of the United States Trade Representative regularly updates the status of each pending request on the Exclusions Portal at *https://exclusions.ustr.gov/s/PublicDocket.*

B. Determination To Grant Certain Exclusions

Based on the evaluation of the factors set out in the June 24 notice, which are summarized above, pursuant to sections 301(b), 301(c), and 307(a) of the Trade Act of 1974, as amended, and in accordance with the advice of the interagency Section 301 Committee, the U.S. Trade Representative has determined to grant the product exclusions set out in the Annex to this notice. The U.S. Trade Representative's determination also takes into account advice from advisory committees and any public comments on the pertinent exclusion requests.

As set out in the Annex, the exclusions are reflected in 83 specially prepared product descriptions, which cover 95 separate exclusion requests.

In accordance with the June 24 notice, the exclusions are available for any product that meets the description in the Annex, regardless of whether the importer filed an exclusion request. Further, the scope of each exclusion is governed by the scope of the product descriptions in the Annex, and not by the product descriptions set out in any particular request for exclusion.

Paragraph A, subparagraphs (3)–(5) are conforming amendments to the HTSUS reflecting the modification made by the Annex.

Paragraph B is a technical correction to the HTSUS modifying U.S. note 20(a) to subchapter III of chapter 99.

As stated in the September 20, 2019 notice, the exclusions will apply from September 24, 2018, to August 7, 2020. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

The U.S. Trade Representative will continue to issue determinations on pending requests on a periodic basis.

Joseph Barloon,

General Counsel, Office of the U.S. Trade Representative.

Annex

A. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on September 24, 2018, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:

1. By inserting the following new heading 9903.88.33 in numerical sequence, with the material in the new heading inserted in the columns of the HTSUS labeled ''Heading/Subheading'', ''Article Description'', and ''Rates of Duty 1-General'', respectively:

Heading/ subheading	Article description	Rates of duty		
		1		2
		General	Special	
"9903.88.33	Articles the product of China, as provided for in U.S. note 20(ll) to this subchapter, each covered by an exclusion granted by the U.S. Trade Representative.	The duty provided in the applicable subheading".		

2. by inserting the following new U.S. note 20(ll) to subchapter III of chapter 99 in numerical sequence:

''(ll) The U.S. Trade Representative determined to establish a process by which particular products classified in heading 9903.88.03 and provided for in U.S. notes 20(e) and (f) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.03. See 83 FR 47974 (September 21, 2018) and 84 FR 29576 (June 24, 2019). Pursuant to the product exclusion process, the U.S. Trade Representative has determined that the additional duties provided for in heading 9903.88.03 shall not apply to the following particular products, which are provided for in the enumerated statistical reporting numbers:

(1) Erythritol (CAS No. 149–32–6) (described in statistical reporting number 2905.49.4000)
(2) 3-Trifluoromethyl-4-nitrophenol (CAS No. 88–30–2) (IUPAC: 4-nitro-3-(trifluoromethyl)phenol), valued over $16 per kg but not over $25 per kg (described in statistical reporting number 2908.99.8000)
(3) Sebacic acid (CAS No. 111–20–6) (described in statistical reporting number 2917.13.0030)
(4) 4,4'-Diamino-2,2'-stilbenedisulfonic acid (CAS No. 81–11–8) (described in statistical reporting number 2921.59.2000)
(5) Ethyl 4-aminobenzoate (CAS No. 94–09–7) (Benzocaine (INN)) (described in statistical reporting number 2922.49.3700)
(6) N-Butyl isocyanate (CAS No. 111–36–4) (described in statistical reporting number 2929.10.2700)
(7) Pigment yellow 13 (CAS No. 5102–83–0) (described in statistical reporting number 3204.17.9050)
(8) Polyethylene terephthalate (PET) film coated with a photoresist solution, in rolls, sensitized, unexposed, without perforations, of a width exceeding 105 mm but not exceeding 610 mm, not used as graphic arts film (described in statistical reporting number 3702.44.0160)
(9) Ceiling tiles of cellular polyvinyl chloride (PVC), in rolls, not backed by textile fibers, each measuring 60 cm by 60 cm by 4 mm (described in statistical reporting number 3918.10.5000)
(10) Gaskets, washers and other seals (other than O-rings or oil seals), of nitrile rubber, ethylene propylene diene monomer (EPDM) rubber or fluoroelastomers (described in statistical reporting number 4016.93.5050)
(11) Brake bushings, hard or soft (described in statistical reporting number 4016.99.6050)
(12) Trays, plates and bowls, of bamboo (described in statistical reporting number 4823.61.0040)
(13) Yarn of carded Merino sheep wool, not put up for retail sale, containing 85 percent by weight of wool, of which the average fiber diameter is not more than 25 microns (described in statistical reporting number 5106.10.0090)
(14) Woven dyed fabrics of 100 percent textured polyester filament yarn, measuring 332.7 cm in width, weighing more than 170 g/m² (described in statistical reporting number 5407.52.2060)
(15) Nonwoven fabrics of man-made fibers, weighing more than 25 g/m² but not more than 70 g/m², with a smooth or embossed texture (not impregnated, coated or covered with material other than or in addition to rubber, plastics, wood pulp or glass fibers), in rolls that are pre-slitted in lengths of not less than 15 cm to not more than 107 cm, for use in the manufacture of personal care wipes (described in statistical reporting number 5603.12.0090)
(16) Seat belt webbing of man-made fibers, measuring 25 mm or more but not exceeding 50 mm in width, not cut to specific length (described in statistical reporting number 5806.32.2000)
(17) Imitation leather fabrics, of man-made fibers impregnated, coated, covered or laminated with 75 percent polyvinyl chloride (PVC) by weight (described in statistical reporting number 5903.10.2090)
(18) Fabrics of man-made micro-denier fibers impregnated, coated, covered, or laminated with polyurethane, of a width of at least 135 cm but no more than 150 cm, weighing at least 206 g/m² but not more than 500 g/m² (described in statistical reporting number 5903.20.2500)
(19) Long pile knit fabrics, of acrylic pile on polyester ground, valued not over $16 per m² (described in statistical reporting number 6001.10.2000)
(20) Cement backer boards (CAS No. 1309–48–4) (described in statistical reporting number 6810.99.0080)
(21) Tiles of non-recycled glass on a vinyl mesh backing, in a grid pattern of not less than 304 mm by 304 mm and not exceeding 305 mm by 305 mm, for mosaics or other decorative or construction purposes (described in statistical reporting number 7016.10.0000)
(22) Microscope slides, each 25 mm by 76 mm, with a 25 mm by 25 mm area coated in printable paint (described in statistical reporting number 7017.90.1000)
(23) Articulated chains of iron, not over 8 mm in thickness and valued not over $2 per kg (described in statistical reporting number 7315.12.0080)
(24) Bolts of alloy steel other than stainless steel, with shanks or threads with a diameter of 6 mm or more, valued not over $0.10 per kg (described in statistical reporting number 7318.15.8069)
(25) Perforated hollow hex head bolts (''banjo bolts'') of steel other than stainless, with shanks or threads with a diameter of 6 mm or more, valued not over $0.10 per kg (described in statistical reporting number 7318.15.8069)
(26) Kerosene air heaters, each incorporating a motor-driven fan or blower, each valued at $100 or more but not exceeding $120 (described in statistical reporting number 7322.90.0015)
(27) Freestanding cast iron bathtubs, without feet, coated with porcelain enamel, each valued over $275 (described in statistical reporting number 7324.21.5000)
(28) Stamped steel rings, measuring 1.22 mm in thickness and 35 mm in

diameter, of a kind used with rubber vibration bushings in motor vehicle suspensions (described in statistical reporting number 7326.19.0080)

(29) Portable work table bases (described in statistical reporting number 7326.90.8688)

(30) Sawhorses of steel, with folding legs, each with a weight capacity of at least 225 kg but not more than 685 kg (described in statistical reporting number 7326.90.8688)

(31) Decorative copper cup rainfall funnels, each weighing not more than 1.5 kg with a chain measuring 20 cm in length, cups each measuring 80 cm in height, 10 cm in width, 10 cm in diameter (described in statistical reporting number 7419.99.5050)

(32) Nickel hydroxy carbonate (CAS No. 12607–70–4) (described in statistical reporting number 7501.20.0000)

(33) Aluminum desktop stands for laptop computers (described in statistical reporting number 7616.99.5190)

(34) Extension wrenches (described in statistical reporting number 8204.11.0060)

(35) Parallel clamps with jaws not more than 10 cm wide (described in statistical reporting number 8205.70.0090)

(36) Drill bits of steel, consisting of three legs that are welded together with each leg containing rotating cones, for use in drilling for oil and natural gas (described in statistical reporting number 8207.19.3060)

(37) Cylindrical cemented tungsten carbide rod blanks, containing by weight 60 percent or more of tungsten carbide, 30 percent or less of cobalt, and 15 percent or less of nickel (described in statistical reporting number 8209.00.0030)

(38) Brake pad clips, of stainless steel, for motor vehicles of headings 8703 and 8704 (described in statistical reporting number 8302.30.3060)

(39) Fifteen-door refrigerated lockers designed to convey pre-ordered groceries to consumers, measuring not over 80 cm in depth by 230 cm in length by 35 cm in height (described in statistical reporting number 8418.50.0080)

(40) Nine-door refrigerated lockers designed to convey pre-ordered groceries to consumers, measuring not over 80 cm in depth by 230 cm in length by 35 cm in height (described in statistical reporting number 8418.50.0080)

(41) Pressure washers (described in statistical reporting number 8424.30.9000)

(42) Cash drawers for cash registers of subheading 8470.50 (described in statistical reporting number 8473.29.0000)

(43) Ball valves, of bronze, designed for use in marine engines, generators and air conditioners, in sizes from 6 mm NPT/BSPP to 102 mm NPT/BSPP (described in statistical reporting number 8481.80.1085)

(44) Hand operated butterfly valves, of iron, lever operated, designed for use in irrigation systems, such valves each measuring not over 34 cm by 13 cm by 34 cm (described in statistical reporting number 8481.80.3030)

(45) Hand operated butterfly valves, of iron, lever operated, designed for use in irrigation systems, such valves each measuring not over 34 cm by 13 cm by 40 cm (described in statistical reporting number 8481.80.3030)

(46) Hand operated butterfly valves, of iron, lever operated, designed for use in irrigation systems, such valves each measuring not over 46 cm by 18 cm by 50 cm (described in statistical reporting number 8481.80.3030)

(47) Hand operated butterfly valves, of iron, lever operated, designed for use in irrigation systems, such valves each measuring not over 55 cm by 58 cm by 18 cm (described in statistical reporting number 8481.80.3030)

(48) Hand operated butterfly valves, of iron, lever operated, designed for use in irrigation systems, such valves each measuring not over 65 cm by 61 cm by 19 cm (described in statistical reporting number 8481.80.3030)

(49) Faucets of brass, designed for use on centerset and widespread lavatory sinks (described in statistical reporting number 8481.80.5060)

(50) Fan-forced, portable electric space heaters, each having a power consumption of not more than 1.5 kW and weighing more than 1.5 kg but not more than 17 kg, whether or not incorporating a humidifier or air filter (described in statistical reporting number 8516.29.0030)

(51) Fan-forced, portable electric space heaters, each having a power consumption more than 900 W but not more than 1.6 kW and weighing more than 1.5 kg but not more than 17 kg, whether or not incorporating a humidifier or air filter (described in statistical reporting number 8516.29.0030)

(52) Electric fireplace inserts and free-standing electric fireplace heaters, rated at 5,000 British thermal units (BTUs) (described in statistical reporting number 8516.29.0090)

(53) Electric fireplaces, weighing not more than 21 kg (described in statistical reporting number 8516.29.0090)

(54) Mobile wi-fi hotspots (described in statistical reporting number 8517.62.0020)

(55) Magnetic security tags and labels (described in statistical reporting number 8531.90.9001)

(56) Printed circuit boards, plastics impregnated, not flexible, having a base wholly of impregnated glass, with fewer than 3 layers of conducting materials, valued over $2 but not over $4.25 each (described in statistical reporting number 8534.00.0040)

(57) Programmable gas ignition safety controls, each measuring at least 4 cm but not more than 5 cm in height, at least 6 cm but not more than 9 cm in width, and not more than 14 cm in depth, weighing at least 190 g but not more than 250 g, and valued not over $15 each, of a kind used in water heaters for recreational vehicles (described in statistical reporting number 8537.10.9160)

(58) Gas ignition control relighters, each measuring 5 cm by 4 cm by 10 cm, and weighing not more than 100 kg, of a kind used in gas burner systems or propane vaporizers (described in statistical reporting number 8537.10.9170)

(59) Gas ignition safety controls, each measuring at least 3 cm but not more than 6 cm in height, at least 9 cm but not more than 12 cm in width, and at least 13 cm but not more than 14 cm in height, weighing at least 200 g but not more than 400 g, and valued not over $26 each, of a kind used in patio heaters, agricultural heaters, or clothes dryers (described in statistical reporting number 8537.10.9170)

(60) Hybrid signal processing apparatus capable of connecting to a wired or wireless network for the mixing of sound (described in statistical reporting number 8543.70.9100)

(61) Insulated electric conductors for a voltage not exceeding 1,000 V, fitted with connectors of a kind used for telecommunications, each valued over $0.35 but not over $2 (described in statistical reporting number 8544.42.2000)

(62) Insulated electric conductors, for a voltage not exceeding 1,000 V, fitted with connectors (other than of a kind used for telecommunications, other than extension cords as defined in statistical note 6 to chapter 85), such conductors measuring not less than 8 m and not more than 10 m in length, incorporating a connector on one end and a weather-resistant compartment and cover designed to house 4 AA batteries on the other end (described in statistical reporting number 8544.42.9090)
(63) Safety seat belts of the motor vehicles of headings 8701 to 8705, each valued over $3.50 but not over $4.50 (described in statistical reporting number 8708.21.0000)
(64) Seat belt retractor assemblies without a ratchet mechanism (described in statistical reporting number 8708.29.5060)
(65) Cast iron parts of differential dampers for motor vehicles of heading 8703 (described in statistical reporting number 8708.50.8100)
(66) Road wheels for the vehicles of heading 8703, of A 356 aluminum, each measuring at least 50.8 cm but not more than 66.04 cm (20 inches to 26 inches) in diameter and at least 25.4 cm but not more than 40.64 cm (10 inches to 16 inches) in width (described in statistical reporting number 8708.70.4545)
(67) Clutch covers and discs of steel for the motor vehicles of headings 8701 to 8705 (other than for tractors suitable for agricultural use) (described in statistical reporting number 8708.93.7500)
(68) Anti-vibration control components of ASTM A519 1020 cold-drawn precision mechanical tubing of steel, valued over $0.50 each but not over $0.60 each, for motor vehicles of headings 8701 to 8705 (other than for tractors suitable for agricultural use) (described in statistical reporting number 8708.99.8180)
(69) Bicycle frames, of carbon fiber, valued not over $600 each (described in statistical reporting number 8714.91.3000)
(70) Mobile bases, of which the length of the sides can be adjusted, with a capacity of 182 kg or more but not exceeding 680 kg (described in statistical reporting number 8716.8050.90)
(71) Unmounted lenses for rifle scopes, rangefinders and spotting scopes (described in statistical reporting number 9001.90.4000)
(72) Clear rectangular filter cover lenses, unmounted, of allyl diglycol carbonate for arc welding helmets, each measuring 50 mm by 110 mm or measuring 115 mm by 135 mm (described in statistical reporting number 9001.90.9000)
(73) Parts and accessories of meteorological instruments and appliances, consisting of a kit including a housing for mounting to a pole with an integrated tightening knob and an extension cord measuring not less than 8 m and not more than 10 m in length (described in statistical reporting number 9015.90.0190)
(74) Battery-powered timers, with clock or watch movements, with opto-electronic display only, incorporating a 360-degree rotating timer control, a start/stop control, a reset control, and an audible alarm, with a maximum time count of 9 hours, 59 minutes, and 59 seconds (described in statistical reporting number 9106.90.5510)
(75) Battery-powered timers, with clock or watch movements, with opto-electronic display only, incorporating an audible alarm, with dimensions not exceeding 10 cm by 10 cm by 5 cm, weighing no more than 60 grams (described in statistical reporting number 9106.90.5510)
(76) Foot assemblies of base metal and rubber, designed for folding chairs (described in statistical reporting number 9401.90.5081)
(77) Wooden jewelry armoires, each weighing over 13 kg but not over 28 kg, measuring 101 cm in height by 44 cm in width by 30 cm in depth, with 8 drawers (described in statistical reporting number 9403.50.9080)
(78) Wooden jewelry armoires, each weighing over 13 kg but not over 28 kg, measuring 102 cm in height by 46 cm in width by 30 cm in depth, with 7 drawers (described in statistical reporting number 9403.50.9080)
(79) Bassinets, composed of polyester fabric with frames of steel tubing, each measuring 86 cm in length by 51 cm in width by 88 cm in height, weighing not more than 11 kg, with drop-side rail and adjustable height legs on wheels (described in statistical reporting number 9403.89.6003)
(80) Bassinets, composed of polyester fabric with frames of steel tubing, each measuring 86 cm in length by 52 cm in width by 81 cm in height weighing not more than 11 kg, or 100 cm in length by 65 cm in width by 81 cm in height weighing 13 kg, with drop-side rail and wheels (described in statistical reporting number 9403.89.6003)
(81) Bassinets, composed of polyester fabric with frames of steel tubing, each measuring 91 cm in length and 72 cm in width, weighing not more than 13 kg, with drop-side rail, adjustable height legs on wheels, presented with hanging toys and musical mobile (described in statistical reporting number 9403.89.6003)
(82) Infant bassinets, of metal, plastic and fabric, measuring not over 80 cm by 30 cm by 30 cm (described in statistical reporting number 9403.89.6003)
(83) Desk or table top computer monitor sit/stand workstations, each valued over $100 (described in statistical reporting number 9403.90.8061)''

3. by amending the last sentence of the first paragraph of U.S. note 20(e) to subchapter III of chapter 99:

a. By deleting the word ''or'' where it appears after the phrase ''U.S. note 20(p) to subchapter III of chapter 99;''; and

b. by inserting the phrase ''; or (3) heading 9903.88.33 and U.S. note 20(ll) to subchapter III of chapter 99'' after the phrase ''U.S. note 20(w) to subchapter III of chapter 99''.

4. by amending U.S. note 20(f) to subchapter III of chapter 99;

a. by deleting the word ''or'' where it appears after the phrase ''U.S. note 20(p) to subchapter III of chapter 99;''; and

b. by inserting the phrase ''; or (3) heading 9903.88.33 and U.S. note 20(ll) to subchapter III of chapter 99'' after the phrase ''U.S. note 20(w) to subchapter III of chapter 99''.

5. by amending the Article Description of heading 9903.88.03:

a. By deleting ''9903.88.13 or'' and inserting ''9903.88.13,'' in lieu thereof; and

b. by inserting ''or 9903.88.33,'' after ''9903.88.18,''.

B. U.S. note 20(a) to subchapter III of chapter 99 is modified by deleting ''(7)'' where it appears before the phrase ''heading 9903.88.19'' and by inserting ''(8)'' in lieu thereof.

[FR Doc. 2019–23441 Filed 10–25–19; 8:45 am]

BILLING CODE 3290–F0–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2004–20000]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this

document provides the public notice that on October 10, 2019, Dallas Area Rapid Transit (DART) petitioned the Federal Railroad Administration (FRA) to extend its waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 229 and 234. FRA assigned the petition Docket Number FRA–2004–20000.

Specifically, DART seeks an extension of the terms and conditions of its current waiver of compliance from the provisions of 49 CFR 229.125, *Headlights and auxiliary lights,* and 49 CFR 234.105, *Activation failure.* This waiver was initially granted in 2005 and extended in 2010 and 2015, to allow operation of DART's rail-fixed guideway public transit lines that share a ''limited connection'' with the general railroad system, specifically with the Dallas Garland and Northeastern Railroad. DART's petition states that no modifications or changes have occurred since the waiver was initially granted in 2005. The petition also states that DART ''has no record of any accidents or safety-related incidents that occurred in these areas covered by the regulations where these waivers are being requested.''

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received by December 12, 2019 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. 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 *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2019–23450 Filed 10–25–19; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Bureau of the Fiscal Service

Fee Schedule for the Transfer of U.S. Treasury Book-Entry Securities Held on the Fedwire Securities Service

AGENCY: Bureau of the Fiscal Service, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury (Treasury) is announcing a new fee schedule applicable to transfers of U.S. Treasury book-entry securities maintained on the Fedwire Securities Service (Fedwire) that occur on or after January 2, 2020.

DATES: Applicable January 2, 2020.

FOR FURTHER INFORMATION CONTACT: Brendan Griffiths, Bureau of the Fiscal Service, 202–504–3550.

SUPPLEMENTARY INFORMATION: Treasury has established a fee structure for the transfer of Treasury book-entry securities maintained on Fedwire. Treasury reassesses this fee structure periodically based on our review of the latest book-entry costs and volumes.

For each Treasury securities transfer or reversal sent or received on or after January 2, 2020, the basic fee will decrease from $0.90 to $0.75. The Federal Reserve System also charges a funds movement fee for each of these transactions for the funds settlement component of a Treasury securities transfer.[1] The surcharge for an off-line Treasury book-entry securities transfer will remain at $70.00. Off-line refers to the sending and receiving of transfer messages to or from a Federal Reserve Bank by means other than on-line access, such as by written, facsimile, or telephone voice instruction. The basic transfer fee assessed to both sends and receives is reflective of costs associated with the processing of securities transfers. The off-line surcharge, which is in addition to the basic fee and the funds movement fee, reflects the additional processing costs associated with the manual processing of off-line securities transfers.

Treasury does not charge a fee for account maintenance, the stripping and reconstitution of Treasury securities, the wires associated with original issues, or interest and redemption payments. Treasury currently absorbs these costs.

The fees described in this notice apply only to the transfer of Treasury book-entry securities held on Fedwire. Information concerning fees for book-entry transfers of Government Agency securities, which are priced by the Federal Reserve, is set out in a separate **Federal Register** notice published by the Federal Reserve.

The following is the Treasury fee schedule that will take effect on January 2, 2020, for book-entry transfers on Fedwire:

TREASURY-FEDWIRE FEE SCHEDULE EFFECTIVE JANUARY 2, 2020

[In dollars]

Transfer type	Basic fee	Off-line surcharge
On-line transfer originated	0.75	N/A
On-line transfer received	0.75	N/A
On-line reversal transfer originated	0.75	N/A
On-line reversal transfer received	0.75	N/A
Off-line transfer originated	0.75	70.00
Off-line transfer received	0.75	70.00
Off-line account switch received	0.75	0.00
Off-line reversal transfer originated	0.75	70.00
Off-line reversal transfer received	0.75	70.00

Authority: 31 CFR 357.45.

David A. Lebryk,

Fiscal Assistant Secretary.

[FR Doc. 2019–23482 Filed 10–25–19; 8:45 am]

BILLING CODE 4810–AS–P

[1] The Board of Governors of the Federal Reserve System sets this fee separately from the fees assessed by Treasury. As of January 2, 2019, that fee was $0.11 per transaction. For a current listing of the Federal Reserve System's fees, please refer to *https://www.frbservices.org/financial-services/securities/index.html.*

DEPARTMENT OF THE TREASURY

Fiscal Service

Prompt Payment Interest Rate; Contract Disputes Act

AGENCY: Bureau of the Fiscal Service, Treasury.

ACTION: Notice of prompt payment interest rate; Contract Disputes Act.

SUMMARY: For the period beginning July 1, 2019, and ending on December 31, 2019, the prompt payment interest rate is 2⅝ per centum per annum.

DATES: This rate becomes effective July 1, 2019, to December 31, 2019.

ADDRESSES: Comments or inquiries may be mailed to: E-Commerce Division, Bureau of the Fiscal Service, 401 14th Street SW, Room 306F, Washington, DC 20227. Comments or inquiries may also be emailed to *PromptPayment@fiscal.treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Thomas M. Burnum, E-Commerce Division, (202) 874–6430; or Thomas Kearns, Attorney-Advisor, Office of the Chief Counsel, (202) 874–7036.

SUPPLEMENTARY INFORMATION: An agency that has acquired property or service from a business concern and has failed to pay for the complete delivery of property or service by the required payment date shall pay the business concern an interest penalty. 31 U.S.C. 3902(a). The Contract Disputes Act of 1978, Sec. 12, Public Law 95–563, 92 Stat. 2389, and the Prompt Payment Act, 31 U.S.C. 3902(a), provide for the calculation of interest due on claims at the rate established by the Secretary of the Treasury.

The Secretary of the Treasury has the authority to specify the rate by which the interest shall be computed for interest payments under section 12 of the Contract Disputes Act of 1978 and under the Prompt Payment Act. Under the Prompt Payment Act, if an interest penalty is owed to a business concern, the penalty shall be paid regardless of whether the business concern requested payment of such penalty. 31 U.S.C. 3902(c)(1). Agencies must pay the interest penalty calculated with the interest rate, which is in effect at the time the agency accrues the obligation to pay a late payment interest penalty. 31 U.S.C. 3902(a). ''The interest penalty shall be paid for the period beginning on the day after the required payment date and ending on the date on which payment is made.'' 31 U.S.C. 3902(b).

Therefore, notice is given that the Secretary of the Treasury has determined that the rate of interest applicable for the period beginning July 1, 2019, and ending on December 31, 2019, is 2⅝ per centum per annum.

David A. Lebryk,

Fiscal Assistant Secretary.

[FR Doc. 2019–23483 Filed 10–25–19; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Internal Revenue Service Advisory Council; Meeting

AGENCY: Internal Revenue Service, Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: The Internal Revenue Service Advisory Council (IRSAC) will hold a public meeting on Wednesday, November 20, 2019.

FOR FURTHER INFORMATION CONTACT: Mrs. Anna Brown, Office of National Public Liaison, at 202–317–6851 or send an email to *PublicLiaison@irs.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), that a public meeting of the IRSAC will be held on Wednesday, November 20, 2019, from 9:00 a.m. to 1:00 p.m. at the Internal Revenue Service, 1111 Constitution Ave. NW, 7th Floor Auditorium, Washington, DC 20224. Issues to be discussed include, but are not limited to: *Accelerating the use of e-Signatures in Federal Tax Administration; Establishing Safe Harbors by Relying on Certain Conclusions of Independent Parties; Broadening and Improving a Self-Correction Program for Tax-Exempt Bonds; Improving Customer Experience and Service Delivery; Form W–4 2020 Version; Improving the Marketing, Promotion and Participation of VITA/TCE Programs and Other Services; The Effectiveness of Guidance and Outreach for 199A, Qualified Business Income; The Sharing Economy and Impact on the Tax Gap; The Need for Guidance for ''On-Demand Payroll''*; and *Improving the Accuracy of Form 990 Filings.* Last-minute agenda changes may preclude advanced notice. Due to building security requirements, confirm your attendance by November 14 to Tina Briscoe at 202–317–6535. Attendees are encouraged to arrive at least 30 minutes before the meeting begins. Should you wish the IRSAC to consider a written statement, please write to Internal Revenue Service, Attn: Anna Brown, Office of National Public Liaison, CL: NPL, Room 7559, 1111 Constitution Avenue NW, Washington, DC 20224 or send an email to *PublicLiaison@irs.gov.*

Dated: October 17, 2019.

John Lipold,

Branch Chief, IRS Office of National Public Liaison, IRSAC Designated Federal Official.

[FR Doc. 2019–23409 Filed 10–25–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Proposed Collection; Comment Request; Annual Performance Report and Certification for Section 1603: Payments for Specified Renewable Energy Property in Lieu of Tax Credits

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to comment on the proposed information collection listed below, in accordance with the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before December 27, 2019.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to 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 from Sustanchia Gladden by emailing *Sustanchia.Gladden@treasury.gov,* calling (202) 622–8951, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Title: Annual Performance Report and Certification for Section 1603: Payments for Specified Renewable Energy Property in Lieu of Tax Credits.

OMB Control Number: 1505–0221.

Type of Review: Extension without change of a currently approved collection.

Description: Authorized under the American Recovery and Reinvestment Act (ARRA), of 2009 (Pub. L. 111–5), the Department of the Treasury is implementing several provisions of the Act, more specifically Division B-Tax, Unemployment, Health, State Fiscal Relief, and Other Provisions. Among these components is a program which

requires Treasury, in lieu of a tax credit, to reimburse persons who place in service certain specified energy properties. The collection of information is necessary to properly monitor compliance with program requirements. Applicants for Section 1603 payments commit in the Terms and Conditions that are part of the application to submitting an annual report for five years from the date the energy property is placed in service.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 150,000.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 150,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 37,000.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: October 22, 2019.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2019–23399 Filed 10–25–19; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Proposed Collection; Comment Request; Troubled Asset Relief Program—Making Home Affordable Participants

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to comment on the proposed information collections listed below, in accordance with the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before December 27, 2019.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to 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 from Christopher Dove by emailing *Christopher.Dove@treasury.gov,* calling (202) 927–0374, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Title: Troubled Asset Relief Program—Making Home Affordable Participants.

OMB Control Number: 1505–0216.

Type of Review: Extension without change of a currently approved collection.

Description: Authorized under the Emergency Economic Stabilization Act (EESA) of 2008 (Pub. L. 110–343), the Department of the Treasury has implemented several aspects of the Troubled Asset Relief Program (TARP). Among these components was a voluntary foreclosure prevention program—the Making Home Affordable (MHA) program, under which the Department used TARP capital to lower the mortgage payments of qualifying borrowers. The Treasury did this through agreements with mortgage servicers (Servicer Participation Agreements, or SPAs) to modify loans on their systems. Pursuant to the Consolidated Appropriations Act, 2016 (Pub. L. 114–113), the MHA program terminated on December 31, 2016, except with respect to certain loan modification applications made before such date. The MHA program has several subcomponents: HAMP (Home Affordable Modification Program), 2MP (Second Lien Modification Program), HAFA (Home Affordable Foreclosure Alternatives) and FHA (Federal Housing Administration)/RD (Rural Development) HAMP. Though the MHA program has terminated, there is some data reporting that will continue through December 2023 for incentive payment and compliance purposes.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 140.

Frequency of Response: On Occasion.

Estimated Total Number of Annual Responses: 1,680.

Estimated Time per Response: 28.5 hours.

Estimated Total Annual Burden Hours: 47,880.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: October 23, 2019.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2019–23440 Filed 10–25–19; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0154]

Agency Information Collection Activity Under OMB Review: Application For VA Education Benefits; Application For Family Member To Use Transferred Benefits; Application For VA Benefits Under The National Call To Service Program

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of

Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 27, 2019.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0154'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Danny S. Green at (202) 421–1354.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 3034; 3241, 3323(a), 3471, 5101(a); Public Law 96–342, sections 901 and 903; and 10 U.S.C. 16136(b).

Title: Application For VA Education Benefits (VA Form 22–1990); Application For Family Member To Use Transferred Benefits (VA Form 22–1990E); Application For VA Benefits Under The National Call To Service Program (VA Form 22–1990N).

OMB Control Number: 2900–0154.

Type of Review: Revision of a currently approved collection.

Abstract: The claimant uses this form to submit an initial (or ''original'') claim for VA education benefits. The information requested on this form helps VA determine the applicant's eligibility to education benefits. To streamline the application process for the claimant, we have divided one large application into three, removing the two least used programs (National Call to Service (NCS) Transfer of Entitlement (TOE) and developed separate applications for those programs, the VA Form 22–1990E and VA Form 22–1990N.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 84 FR 17147 on October 11, 2019, page 17147.

Affected Public: Individual and households.

Estimated Annual Burden: 248,916.

Estimated Average Burden per Respondent: 20 minutes (Electronic Submissions). 15 minutes (Paper Submissions).

Frequency of Response: Once.

Estimated Number of Respondents: 807,296.

By direction of the Secretary.

Danny S. Green,

VA Interim Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2019–23439 Filed 10–25–19; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0465]

Agency Information Collection Activity Under OMB Review: Student Verification of Enrollment

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 27, 2019.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0465'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Danny S. Green, (202) 421–1354 or email *Danny.Green2@va.gov.* Please refer to ''OMB Control No. 2900–0465'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Student Verification of Employment, VA Form 22–8979.

OMB Control Number: 2900–0465.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 22–8979 is used by students to submit their verification of enrollment on a monthly basis to allow for a frequent and periodic release of payment. Without this information, VA could not pay benefits based on proof of attendance and/or change in enrollment.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at Vol. 84, No. 154, on August 9, 2019, page 39395.

Affected Public: Individuals.

Estimated Annual Burden: 15,479.

Estimated Average Burden per Respondent: 1 minute.

Frequency of Response: On occasion (5 certifications per student per year).

Estimated Number of Respondents: 185,008 (928,740 responses).

By direction of the Secretary.

Danny S. Green,

VA Interim Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2019–23452 Filed 10–25–19; 8:45 am]

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