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DEPARTMENT OF AGRICULTURE

7 CFR Part 20

RIN 0551–AB01

Export Sales Reporting Program

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule; clarification.

SUMMARY: The USDA is modifying the regulations implementing the export sales reporting requirements of Section 602 of the Agricultural Trade Act of 1978. The Export Sales Reporting Requirements regulations require exporters to report on a weekly basis information concerning quantity, country of destination, and other specified information related to export sales of beef and pork, among other commodities. USDA is adding a footnote to clarify the descriptions for ''fresh, chilled or frozen muscle cuts/whether or not boxed'' for beef and pork in the appendix to the regulations. The footnote includes an illustrative list of items that fall under these headings, such as carcasses and half-carcasses. This final rule clarifies the wording of the regulations to avoid potential confusion.

DATES: This rule is effective November 25, 2019.

ADDRESSES: U.S. Department of Agriculture, Foreign Agricultural Service, Global Market Analysis Division, 1400 Independence Ave. SW, Washington, DC 20250–1025.

FOR FURTHER INFORMATION CONTACT: Amy Harding, Global Marketing Analysis Division, 202–720–3538, Email *esr@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 602 of the Agricultural Act of 1978 (7 U.S.C. 5712), as amended, requires all exporters of wheat and wheat flour, feed grains, oil seeds, cotton, pork, beef, and products thereof, and other commodities that the Secretary of Agriculture may designate produced in the United States to report to USDA, on a weekly basis, information regarding export sales contracts entered into or subsequently modified during the reporting period, including, *inter alia,* the type, class, and quantity of the commodity sought to be exported. The Export Sales Reporting Requirements regulations in 7 CFR part 20 implement section 602's requirements, and the commodities for which reports are required are set forth in the appendix to part 20. Information collected is aggregated and included in the weekly U.S. Export Sales report published by the Foreign Agricultural Service (FAS).

FAS has received informal inquiries whether exports of different types of beef and pork carcasses must be reported under the regulations. This final rule clarifies the descriptions in the appendix of ''fresh, chilled or frozen muscle cuts/whether or not boxed'' for beef and pork by adding a footnote that sets out an illustrative list of items covered by this description, such as carcasses and half-carcasses.

Notice and Comment

This rule is being issued as a final rule without prior notice and opportunity for comment. The Administrative Procedure Act (APA) states notice of proposed rulemaking is not required ''when the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B). To issue a rule that is immediately effective, an agency similarly must find good cause for dispensing with the 30-day delay required by the APA. Because this change is interpretive in nature and intended to avoid potential confusion, FAS finds that the notice and comment provisions of 5 U.S.C. 553 are not necessary. Similarly, the agency finds that a delay in effectiveness would serve no useful purpose. Accordingly, under 5 U.S.C. 553(b)(B) and (d), notice and public comment thereon and a delay in effectiveness are unnecessary. Therefore, this final rule is effective when published in the **Federal Register**.

Executive Order 12866 and 13563

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). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

Congressional Review Act

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

Executive Order 13175

This rule has been reviewed for compliance with Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments, proposed legislation, and other policy statements or actions that have substantial direct effects 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. FAS has assessed the impact of this rule on Indian tribes and determined that this rule does not, to the knowledge of FAS, have tribal implications that required tribal consultation under Executive Order 13175. If a tribe requests consultation, FAS will work with USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified herein are not expressly mandated by Congress.

Executive Order 13771

Executive Order 13771 directs agencies to reduce regulation and control regulatory costs and provides that for every new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently

managed and controlled through a budgeting process. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

List of Subjects in 7 CFR Part 20

Agricultural commodities, Export sales reporting.

Accordingly, for the reasons stated in the preamble, 7 CFR part 20 is amended as follows:

PART 20—EXPORT SALES REPORTING REQUIREMENTS

■ 1. The authority citation for Part 20 continues to read as follows:

Authority: 7 U.S.C. 5712.

§ 20.4 [Amended]

■ 2. In § 20.4(j), remove ''appendix 1'' and add ''appendix A to this part'' in its place.

§ 20.5 [Amended]

■ 3. In § 20.5, remove ''appendix 1'' and add ''appendix A'' in its place everywhere it appears.

Appendix 1 to Part 20 [Redesignated as Appendix A to Part 20 and Amended]

■ 4. Redesignate appendix 1 to Part 20 as appendix A to Part 20 and revise newly redesignated appendix A to read as follows:

APPENDIX A TO PART 20—COMMODITIES SUBJECT TO REPORTING, UNITS OF MEASURE TO BE USED IN REPORTING, AND BEGINNING AND ENDING DATES OF MARKETING YEARS

Commodity to be reported	Unit of measure to be used in reporting	Beginning of marketing year	End of marketing year
Wheat—hard red winter	Metric Tons	June 1	May 31.
Wheat—soft red winter	Metric Tons	June 1	May 31.
Wheat—hard red spring	Metric Tons	June 1	May 31.
Wheat—white (incl. hard and soft white)	Metric Tons	June 1	May 31.
Wheat—durum	Metric Tons	June 1	May 31.
Wheat—Products—All wheat flours (including clears) bulgur, semolina, farina, and rolled, cracked and crushed wheat.	Metric Tons	June 1	May 31.
Barley—Unmilled (including feed and hull-less waxy barley)	Metric Tons	June 1	May 31.
Corn—Unmilled (including waxy, cracked—if 50% whole kernels)	Metric Tons	Sept. 1	Aug. 31.
Rye—Unmilled	Metric Tons	June 1	May 31.
Oats—Unmilled	Metric Tons	June 1	May 31.
Grain Sorghum—Unmilled	Metric Tons	Sept. 1	Aug. 31.
Soybeans	Metric Tons	Sept. 1	Aug. 31.
Soybean Cake and Meal	Metric Tons	Oct. 1	Sept. 30.
Soybean Oil—including: Crude (including degummed), once refined, soybean salad oil (including refined and further processed by bleaching, deodorizing or winterizing), hydrogenated, packaged oil.	Metric Tons	Oct. 1	Sept. 30.
Flaxseed	Metric Tons	June 1	May 31.
Linseed Oil—including raw, boiled	Metric Tons	June 1	May 31.
Cottonseed	Metric Tons	Aug. 1	July 31.
Cottonseed Cake and Meal	Metric Tons	Oct. 1	Sept. 30.
Cottonseed Oil—including crude, once refined, cottonseed salad oil (refined and further processed by bleaching, deodorizing or winterizing), hydrogenated.	Metric Tons	Oct. 1	Sept. 30.
Sunflowerseed Oil crude, once refined, sunflowerseed salad oil (refined and further processed by bleaching, deodorizing or winterizing), hydrogenated.	Metric Tons	Oct. 1	Sept. 30.
Cotton—American Pima—Raw, extra-long staple	Running Bales	Aug. 1	July 31.
Cotton—Upland—Raw, staple length 1 1/16 inches and over	Running Bales	Aug. 1	July 31.
Cotton—Upland—Raw, staple length 1 inch up to 1 1/16 inches	Running Bales	Aug. 1	July 31.
Cotton—Upland—Raw, staple length under 1 inch	Running Bales	Aug. 1	July 31.
Rice—long grain, rough (including parboiled)	Metric Tons	Aug. 1	July 31.
Rice—medium, short and other classes, rough (including parboiled)	Metric Tons	Aug. 1	July 31.
Rice—long grain, brown (including parboiled)	Metric Tons	Aug. 1	July 31.
Rice—medium, short and other classes, brown (including parboiled)	Metric Tons	Aug. 1	July 31.
Rice—long grain, milled (including parboiled)	Metric Tons	Aug. 1	July 31.
Rice—medium, short and other classes, milled (including parboiled, brewer's rice).	Metric Tons	Aug. 1	July 31.
Cattle Hides and Skins—Whole cattle hides (excluding wet blues)	Pieces	Jan. 1	Dec. 31.
Cattle Hides and Skins—Whole calf skins (excluding wet blues)	Pieces	Jan. 1	Dec. 31.
Cattle Hides and Skins—Whole kip skins (excluding wet blues)	Pieces	Jan. 1	Dec. 31.
Cattle Hides and Skins—Cattle, calf, and kip cut into croupons, crops, dossets, sides, butts and butt bend (hide equivalent) (excluding wet blues).	Number	Jan. 1	Dec. 31.
Cattle Hides and Skins—Cattle, calf and kip, in cuts not otherwise specified; pickled/limed (excluding wet blues).	Pounds	Jan. 1	Dec. 31.
Cattle, calf and kip, Wet blues—unsplit (whole or sided) hide equivalent	Number	Jan. 1	Dec. 31.
Cattle, calf and kip, Wet blues—grain splits (whole or sided) hide equivalent	Number	Jan. 1	Dec. 31.
Cattle, calf and kip, Wet blues—splits, (excluding grain splits)	Pounds	Jan. 1	Dec. 31.
Beef—fresh, chilled or frozen muscle cuts/whether or not boxed [1]	Metric Tons	Jan. 1	Dec. 31.
Pork—fresh, chilled or frozen muscle cuts/whether or not boxed [1]	Metric Tons	Jan. 1	Dec. 31.

[1] For greater clarity, ''muscle cuts'' includes carcasses, whether whole, divided in half or further sub-divided into individual primals, sub-primals, or fabricated cuts, with or without bone. Carcasses which are broken down, boxed, and sold as a complete unit are muscle cuts. Total weight of carcasses reported may include minor non-reportable items attached to carcasses (*e.g.,* hooves attached to carcasses). Meats removed during the conversion of an animal to a carcass (*e.g.,* variety meats such as beef/pork hearts, beef tongues, etc.) are not muscle cuts nor are items sold as bones practically free of meat (*e.g.,* beef femur bones) or fat practically free of meat (*e.g.,* pork clear plate) removed from a carcass.

Dated: October 29, 2019.

Ken Isley,

Administrator, Foreign Agricultural Service.

[FR Doc. 2019–25529 Filed 11–22–19; 8:45 am]

BILLING CODE 3410–10–P

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D; Docket No. R–1686]

RIN 7100–AF 66

Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending Regulation D, Reserve Requirements of Depository Institutions, to reflect the annual indexing of the reserve requirement exemption amount and the low reserve tranche for 2020. The Regulation D amendments set the amount of total reservable liabilities of each depository institution that is subject to a zero percent reserve requirement in 2020 at $16.9 million (up from 16.3 million in 2019). This amount is known as the reserve requirement exemption amount. The Regulation D amendments also set the amount of net transaction accounts at each depository institution (over the reserve requirement exemption amount) that is subject to a three percent reserve requirement in 2020 at $127.5 million (up from $124.2 million in 2019). This amount is known as the low reserve tranche. The adjustments to both of these amounts are derived using statutory formulas specified in the Federal Reserve Act. The Board is also announcing changes in two other amounts, the nonexempt deposit cutoff level and the reduced reporting limit, that are used to determine the frequency at which depository institutions must submit deposit reports.

DATES:

Effective date: December 26, 2019.

Compliance dates: The new low reserve tranche and reserve requirement exemption amount will apply to the fourteen-day reserve maintenance period that begins January 16, 2020. For depository institutions that report deposit data weekly, this maintenance period corresponds to the fourteen-day computation period that begins December 17, 2019. For depository institutions that report deposit data quarterly, this maintenance period corresponds to the seven-day computation period that begins December 17, 2019. The new values of the nonexempt deposit cutoff level, the reserve requirement exemption amount, and the reduced reporting limit will be used to determine the frequency at which a depository institution submits deposit reports effective in either June or September 2020.

FOR FURTHER INFORMATION CONTACT: Sophia H. Allison, Senior Special Counsel (202–452–3565), Legal Division, or Francis A. Martinez, Senior Financial Institution and Policy Analyst (202–245–4217), Division of Monetary Affairs; for users of Telecommunications Device for the Deaf (TDD) only, contact (202/263–4869); Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Section 19(b)(2) of the Federal Reserve Act (12 U.S.C. 461(b)(2)) requires each depository institution to maintain reserves against its transaction accounts and nonpersonal time deposits, as prescribed by Board regulations, for the purpose of implementing monetary policy. Section 11(a)(2) of the Federal Reserve Act (12 U.S.C. 248(a)(2)) authorizes the Board to require reports of liabilities and assets from depository institutions to enable the Board to conduct monetary policy. The Board's actions with respect to each of these provisions are discussed in turn below.

I. Reserve Requirements

Pursuant to section 19(b) of the Federal Reserve Act (Act), transaction account balances maintained at each depository institution are subject to reserve requirement ratios of zero, three, or ten percent. Section 19(b)(11)(A) of the Act (12 U.S.C. 461(b)(11)(A)) provides that a zero percent reserve requirement shall apply at each depository institution to total reservable liabilities that do not exceed a certain amount, known as the reserve requirement exemption amount. Section 19(b)(11)(B) provides that, before December 31 of each year, the Board shall issue a regulation adjusting the reserve requirement exemption amount for the next calendar year if total reservable liabilities held at all depository institutions increase from one year to the next. No adjustment is made to the reserve requirement exemption amount if total reservable liabilities held at all depository institutions should decrease during the applicable time period. The Act requires the percentage increase in the reserve requirement exemption amount to be 80 percent of the increase in total reservable liabilities of all depository institutions over the one-year period that ends on the June 30 prior to the adjustment.

Total reservable liabilities of all depository institutions increased by 4.3 percent, from $8,042 billion to $8,387 billion, between June 30, 2018, and June 30, 2019. Accordingly, the Board is amending Regulation D to set the reserve requirement exemption amount for 2020 at $16.9 million, an increase of $0.6 million from its level in 2019.[1]

Pursuant to Section 19(b)(2) of the Act (12 U.S.C. 461(b)(2)), transaction account balances maintained at each depository institution over the reserve requirement exemption amount and up to a certain amount, known as the low reserve tranche, are subject to a three percent reserve requirement. Transaction account balances over the low reserve tranche are subject to a ten percent reserve requirement. Section 19(b)(2) also provides that, before December 31 of each year, the Board shall issue a regulation adjusting the low reserve tranche for the next calendar year. The Act requires the adjustment in the low reserve tranche to be 80 percent of the percentage increase or decrease in total transaction accounts of all depository institutions over the one-year period that ends on the June 30 prior to the adjustment.

Net transaction accounts of all depository institutions increased 3.4 percent, from $2,410 billion to $2,491 billion, between June 30, 2018, and June 30, 2019. Accordingly, the Board is amending Regulation D to set the low reserve tranche for net transaction accounts for 2020 at $127.5 million, an increase of $3.3 million from 2019.

The new low reserve tranche and reserve requirement exemption amount will be effective for all depository institutions for the fourteen-day reserve maintenance period beginning January 16, 2020. For depository institutions that report deposit data weekly, this maintenance period corresponds to the fourteen-day computation period that begins December 17, 2019. For depository institutions that report deposit data quarterly, this maintenance period corresponds to the seven-day computation period that begins December 17, 2019.

II. Deposit Reports

Section 11(b)(2) of the Federal Reserve Act authorizes the Board to require depository institutions to file reports of their liabilities and assets as

[1] Consistent with Board practice, the low reserve tranche and reserve requirement exemption amounts have been rounded to the nearest $0.1 million.

the Board may determine to be necessary or desirable to enable it to discharge its responsibility to monitor and control the monetary and credit aggregates. The Board screens depository institutions each year and assigns them to one of four deposit reporting panels (weekly reporters, quarterly reporters, annual reporters, or nonreporters). The panel assignment for annual reporters is effective in June of the screening year; the panel assignment for weekly and quarterly reporters is effective in September of the screening year.

In order to ease reporting burden, the Board permits smaller depository institutions to submit deposit reports less frequently than larger depository institutions. The Board permits depository institutions with net transaction accounts above the reserve requirement exemption amount but total transaction accounts, savings deposits, and small time deposits below a specified level (the ''nonexempt deposit cutoff'') to report deposit data quarterly. Depository institutions with net transaction accounts above the reserve requirement exemption amount and with total transaction accounts, savings deposits, and small time deposits greater than or equal to the nonexempt deposit cutoff are required to report deposit data weekly. The Board requires certain large depository institutions to report weekly regardless of the level of their net transaction accounts if the depository institution's total transaction accounts, savings deposits, and small time deposits exceeds or is equal to a specified level (the ''reduced reporting limit''). The nonexempt deposit cutoff level and the reduced reporting limit are adjusted annually, by an amount equal to 80 percent of the increase, if any, in total transaction accounts, savings deposits, and small time deposits of all depository institutions over the one-year period that ends on the June 30 prior to the adjustment.

From June 30, 2018, to June 30, 2019, total transaction accounts, savings deposits, and small time deposits at all depository institutions increased 3.5 percent, from $12,601 billion to $13,046 billion. Accordingly, the Board is increasing the nonexempt deposit cutoff level by $29.0 million to $1.058 billion for 2020 (up from $1.029 billion in 2019). The Board is also increasing the reduced reporting limit by $60.6 million to $2.208 billion for 2020 (up from $2.147 billion in 2019).[2]

Beginning in 2020, the boundaries of the four deposit reporting panels will be defined as follows. Those depository institutions with net transaction accounts over $16.9 million (the reserve requirement exemption amount) or with total transaction accounts, savings deposits, and small time deposits greater than or equal to $2.208 billion (the reduced reporting limit) are subject to detailed reporting, and must file a Report of Transaction Accounts, Other Deposits and Vault Cash (FR 2900 report) either weekly or quarterly. Of this group, those with total transaction accounts, savings deposits, and small time deposits greater than or equal to $1.058 billion (the nonexempt deposit cutoff level) are required to file the FR 2900 report each week, while those with total transaction accounts, savings deposits, and small time deposits less than $1.058 billion are required to file the FR 2900 report each quarter. Those depository institutions with net transaction accounts less than or equal to $16.9 million (the reserve requirement exemption amount) and with total transaction accounts, savings deposits, and small time deposits less than $2.208 billion (the reduced reporting limit) are eligible for reduced reporting, and must either file a deposit report annually or not at all. Of this group, those with total deposits greater than $16.9 million (but with total transaction accounts, savings deposits, and small time deposits less than $2.208 billion) are required to file the Annual Report of Deposits and Reservable Liabilities (FR 2910a) report annually, while those with total deposits less than or equal to $16.9 million are not required to file a deposit report. A depository institution that adjusts reported values on its FR 2910a report in order to qualify for reduced reporting will be shifted to an FR 2900 reporting panel.

III. Regulatory Analysis

Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice of proposed rulemaking have not been followed in connection with the adoption of these amendments. The amendments involve expected, ministerial adjustments prescribed by statute and by the Board's policy concerning reporting practices. The adjustments in the reserve requirement exemption amount, the low reserve tranche, the nonexempt deposit cutoff level, and the reduced reporting limit serve to reduce regulatory burdens on depository institutions. Accordingly, the Board finds good cause for determining, and so determines, that notice in accordance with 5 U.S.C. 553(b) is unnecessary.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking where a general notice of proposed rulemaking is not required.[3] As noted previously, the Board has determined that it is unnecessary to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995,[4] the Board reviewed this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

List of Subjects in 12 CFR Part 204

Banks, banking, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board is amending 12 CFR part 204 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

■ 1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 461, 601, 611, and 3105.

■ 2. Section 204.4 is amended by revising paragraph (f) to read as follows:

§ 204.4 Computation of required reserves.

* * * * *

(f) For all depository institutions, Edge and Agreement corporations, and United States branches and agencies of foreign banks, required reserves are computed by applying the reserve requirement ratios in table 1 to this paragraph (f) to net transaction accounts, nonpersonal time deposits, and Eurocurrency liabilities of the institution during the computation period.

[2] Consistent with Board practice, the nonexempt deposit cutoff level and the reduced reporting limit have been rounded to the nearest $1 million.

[3] 5 U.S.C. 603 and 604.

[4] 44 U.S.C. 3506; 5 CFR part 1320.

TABLE 1 TO PARAGRAPH (F)

Reservable liability	Reserve requirement
Net Transaction Accounts:	
$0 to reserve requirement exemption amount ($16.9 million)	0 percent of amount.
Over reserve requirement exemption amount ($16.9 million) and up to low reserve tranche ($127.5 million).	3 percent of amount.
Over low reserve tranche ($127.5 million)	$3,318,000 plus 10 percent of amount over $127.5 million.
Nonpersonal time deposits	0 percent.
Eurocurrency liabilities	0 percent.

By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Monetary Affairs under delegated authority, November 19, 2019.

Ann Misback,

Secretary of the Board.

[FR Doc. 2019–25428 Filed 11–22–19; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 131

RIN 3245–AG02

Office of Women's Business Ownership: Women's Business Center Program

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The U.S. Small Business Administration (SBA) is codifying regulations for the Women's Business Center (WBC) Program as directed in section 29 of the Small Business Act (the Act). This final rule also codifies policy and procedural changes included in the WBC Program Announcement and Notice of Award (NOA). These changes include, but are not limited to, the following: Language on risk assessment, as required by the Uniform Grant Guidance; limitations on carryovers; a reduction in reporting requirements; and eligibility criteria for selection as a WBC. Implementing these regulations will result in greater standardization and transparency in the delivery of the WBC Program.

DATES: This rule is effective January 24, 2020.

FOR FURTHER INFORMATION CONTACT: Donald Smith, Deputy Assistant Administrator, U.S. Small Business Administration, 409 3rd Street SW, Washington, DC 20416, telephone number (202) 205–7279 or *Donald.Smith@sba.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Women's Business Center Program (WBC Program) was created under the authority of Title II of the Women's Business Ownership Act of 1988 (Pub. L. 100–533). The WBC Program authority is now codified in the Small Business Act (Act), 15 U.S.C. 656. The initial Demonstration Training Program, later renamed the WBC Program, was created with the Congressional intent to remove barriers to the creation and development of small businesses owned and controlled by women and to stimulate the economy by aiding and encouraging the growth and development of such businesses. The specific objectives of the Demonstration Training Program were to provide long-term training and counseling to potential and current women business owners, including those who are Socially and Economically Disadvantaged as defined in 13 CFR 124.103 and 124.104.

Since its creation, the WBC Program has transformed through a number of public laws from a Demonstration Training Program into a permanent program. The laws that have impacted the WBC Program include the following: The Women's Business Development Act of 1991 (Pub. L. 102–191); the Women's Business Centers Sustainability Act of 1999 (Pub. L. 106–165); the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 (Pub. L. 110–28); and the Small Business Jobs Act of 2010 (Pub. L. 111–240).

Section 29 of the Act, 15 U.S.C. 656, authorizes the SBA to provide financial assistance, in the form of grants, to private nonprofit organizations to conduct five-year projects for the benefit of small business concerns owned and controlled by women. The Act further authorizes the SBA to renew a grant for additional three-year periods and provides that there are no limitations on the number of times a grant may be renewed.

On November 22, 2016, the SBA published a proposed rule with a request for public comment in the **Federal Register** to outline program requirements and standardize the delivery of the WBC Program (81 FR 83718). The information proposed by the SBA included clarification of terms and definitions as well as overall program policies.

This final rule codifies the SBA's oversight responsibilities of the WBC Program into a newly created Part 131 of the SBA's regulations by incorporating the following: (A) Standard definitions for the program (13 CFR 131.110); (B) program-participation requirements and application procedures (13 CFR 131.210, 13 CFR 131.300, 13 CFR 131.400); (C) financial-management and grant-administration requirements (13 CFR 131.500); (D) oversight and programmatic and financial-examination provisions (13 CFR 131.700 and 13 CFR 131.720); (E) procedures for the suspension, termination, and non-renewal of a grant (13 CFR 131.830); and (F) procedures for dispute resolution (13 CFR 131.840).

II. Summary of Comments Received

The comment period was open from November 22, 2016, to January 23, 2017, and the SBA received 46 comments. Of the 46 comments received, 36 were from individuals or groups that concurred with the comments submitted by the Association of Women's Business Centers (AWBC). This preamble includes the SBA's response to all of the comments received.

One of the comments received referenced the intended use of the Women's Business Center (WBC or Center) regulations. The commenter indicated that while the SBA's intent of the proposed rule is to outline policies and procedures for the WBC Program and streamline both the program announcement and the notice of award, it continually references both of the aforementioned program documents for additional guidance. The commenter suggested that program applicants and/or participants should not have to refer to multiple documents for guidance. While the proposed rule references both

the program announcement and the notice of award (NOA), the Office of Women's Business Ownership (OWBO) anticipates that both documents will include references to the regulations, resulting in consistency for the program. The regulations will continue to reference the program announcement and NOA, which outline the period of performance and is the legally binding agreement signed annually by the host organization and an authorized staff person at the SBA. In addition, any changes to the grant, including award amounts, SBA targeted/specialized services, initiatives or populations will continue to appear in the annual program announcement(s) and/or NOA.

There were three comments to the Advanced Notice of Proposed Rulemaking (ANPRM) (80 FR 22434, April 22, 2015) that a commenter indicated were not fully addressed in the Notice of Proposed Rulemaking (NPRM). The comments were: (1) Training—The commenter stated that the training provided by OWBO is limited, only addresses compliance, and does not include training on best practices. OWBO shares best practices through regular outreach to the network of WBCs. Best practices are also shared at the annual WBC training conference held by the AWBC. Historically, the compliance training coordinated by OWBO has included instruction on the preparation of effective funding applications, budgets, and modifications. OWBO has also paired new WBCs or new WBC staff with experienced, effective centers or staff for discussions that included, but were not limited to, the pros and cons of using certain training curriculums, what and how to charge fees for services, and marketing strategies. (2) Data Collection System—Several commenters identified the need for the SBA to update the current data collection system. As an Agency priority, the SBA recently improved the Entrepreneurial Development Management Information System (EDMIS) to reduce system errors related to data uploading. The Agency continues to identify ways to improve or replace EDMIS. We appreciate the ongoing feedback from our stakeholders. (3) Repository of Information—A commenter requested that the SBA outline its plan to develop a repository of information for WBCs. The commenter further stated that the repository should include information on best practices, program materials, and documents that can be shared among WBCs. It should also include a forum for questions and answers, an up-to-date map of current WBCs, their managers, and program profiles that include a description of their services, outputs, and outcomes. Additionally, the commenter envisioned the clearinghouse/repository as a forum for WBCs to ask questions and solicit advice. Currently, some of the information identified by the commenter (program materials and reporting documents) can be accessed at the SBA's public website for the program, *www.sba.gov/wbc*. The locations and contact information for all WBCs are included in the local SBA assistance tool at *https://www.sba.gov/tools/local-assistance/wbc*. OWBO is continuing to identify new opportunities for sharing relevant information across the WBC network.

As stated in the preamble of the proposed rule, the SBA intends to work with women's organizations to develop an information repository; however, this rulemaking action is not the proper forum to include an outline of such repository. The creation and management of a repository, as part of this rule, would necessitate frequent modifications to its governing documents. As the repository develops and evolves, it would become extremely burdensome and ineffective for the SBA to continually revise the program regulations. The commenter further suggested that the SBA provide funds to the AWBC to develop a clearinghouse if the SBA is unable to develop one. However, there are currently no resources available to the SBA to develop and manage a clearinghouse or to direct and fund another entity to carry out such a function.

One public comment addressed concerns with the Women-Owned Small Business Procurement Program (WOSB), 13 CFR part 127. However, the WOSB Program is outside the scope of this rule.

131.110 Definitions.

This section defines 57 words and phrases used in the management and oversight of the WBC Program. These definitions have been consolidated from existing documents, including program announcements and cooperative agreements, to ensure consistency and clarity within the WBC Program.

Several commenters suggested that the definition for counseling be revised. Specifically, a commenter questioned why resource partners and SBA district office personnel are included in the definitions, as WBCs do not require assistance from other resource partners or SBA district office personnel to provide counseling services. Based on the public comments received, the SBA has determined that it will remove the definitions related to district office personnel as well as to resource partners.

Commenters recommended that the definition for full-time be clarified and that the ''full-time'' executive director or program manager of a given WBC be able to have responsibilities for associated programs that support and extend the impact of the SBA-funded WBC Program. This rule does not prohibit the Executive Director or WBC Program Director from performing tasks associated with activities that support the WBC project. Rather, the proposed rule defines a full-time employee as one who should not engage in activities that do not pertain to the WBC project. Activities in support of the WBC project are therefore allowable. Additionally, part-time staff paid through the WBC budget are allowed to complete any task(s) associated with the WBC project. The SBA has determined that the definition will remain as originally proposed.

The proposed rule limited the term of an Interim Program Director to no more than 60 days. The SBA received several comments suggesting 60 days did not allow the center sufficient time to identify a new WBC Program Director. In light of the comments and upon further consideration, the SBA has decided to increase the time allowed for an Interim Director to remain in position on an interim basis from 60 days to 90 days. The language in this final rule has been revised.

The proposed rule defined socially and economically disadvantaged women as, ''women who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities. It also includes women whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business.'' A commenter suggested that the word gender be added just before the word racial in this definition. It is the SBA's position that women have been recognized as socially disadvantaged on a case-by-case basis under the SBA's contracting programs on the grounds that they have experienced cultural bias on the basis of gender. There is not a gender-based presumed group for women as there are for race-based groups or members of minority groups, but individual women have been recognized by the SBA as being socially disadvantaged. The SBA would like to avoid conflicting definitions of socially and economically

disadvantaged. Furthermore, 13 CFR 124.103 expressly references the fact that social disadvantage can be based on gender in 13 CFR 124.103(c)(2)(i). Additionally, all of the examples included under § 124.103(c)(3) involve cases of women establishing social disadvantage. Given the aforementioned information, the SBA has determined that the definition will remain as originally proposed.

A commenter suggested that the SBA change the terms ''counseling records'' and ''training records'' to ''client records.'' The SBA agrees with the recommendation and included revised language in this final rule.

131.300 Women's Business Centers (WBCs)

As part of the negotiation process for the cooperative agreement, the ANPRM required that each Center do the following: (1) Collaborate with its local SBA district office and OWBO to develop annual goals, and (2) receive written concurrence on annual goals from its SBA district office for inclusion in the application submission. However, a public commenter reported that many district offices do not have staff equipped to provide this support. The commenter also stated that receiving written concurrence from the SBA district office for inclusion in the application submission places the burden of coordination on the WBC. Lastly, the commenter included an example from the previous year of one SBA district office that was reluctant to provide concurrence at the WBC's request because they felt it was providing ''preferential treatment.'' The SBA agrees with the commenter. Therefore, this provision will be removed from the final rule.

131.310 Operating Requirements

Paragraph (e) requires that all new applicants accepted into the WBC Program after the effective date of this rule be required to include the specific identification ''Women's Business Center'' as part of their WBC's official name. The proposed rule similarly required that any WBC applying for a renewal grant after the effective date of this rule also include the specific identification ''Women's Business Center'' as part of its official name. The rule further proposes that any existing WBC that does not include ''Women's Business Center'' in its name (until such time that a renewal application is submitted) must include the following language prominently on its website and promotional documents: ''The Women's Business Center is funded in part by the U.S. Small Business Administration.'' A commenter wrote that the two sentences seemed contradictory. In the first sentence, ''must'' is used. In the second sentence, it seems inclusion of ''Women's Business Center'' in the official name is optional as long as ''funded in part by the SBA'' is prominently displayed on websites and promotional documents. The commenter recommended that the language be clarified. The SBA agrees with the commenter and has revised the language for clarification.

A commenter requested that the SBA define ''official'' name and explain how it differs from ''legal name.'' The SBA's intention is that the official name is the name assigned to the WBC by its host organization. The legal name is the name of the host organization and is the name usually listed in the Application for Federal Assistance, SF 424. For clarification, the language in this final rule has been revised.

The SBA received several comments regarding whether the costs incurred to change the official name of the WBC to comply with the rule are allowable. As this rule only applies to the official name of the WBC and not the host organization, costs associated with the name change should be minimal and are allowable.

Paragraph (g) addresses conflict of interest. A commenter suggested that it was reasonable to require employees, contractors, and consultants to sign a conflict-of-interest statement, but thought the requirement to have volunteers sign a conflict-of-interest statement was burdensome. The SBA has revised this section of the proposed rule and the submission of conflict-of-interest policy statements is no longer required. However, the WBC must implement conflict-of-interest policies consistent with 2 CFR 2701.112.

131.330 Services and Restrictions on Services

Paragraph (a) of § 131.330 requires WBCs to create and update client records to document each time services are provided to a client. A comment was received stating that this language focuses on documentation of counseling services and does not document the provision of training services, despite the fact that 85% of the WBC's clients receive training. SBA agrees that this regulatory provision was unclear, and the Agency has revised the rule to refer to services generally and removed references to any specific category of services.

Paragraph (b)(5) of the proposed rule prohibited WBCs from intervening in loan decisions, servicing loans, making credit recommendations, or influencing decisions regarding the award of any loans or lines of credit on behalf of the WBC's clients, unless the WBC operates as an SBA Microloan Intermediary and is awarding an individual or small business concern an SBA microloan. A comment was received that recommended the SBA expand the exception, since not all WBCs who are lenders are microlenders, if they make small business loans above the microloan definition. The commenter further explained that not all WBCs who are microlenders are SBA microlenders. The SBA does not agree with the commenter to expand the exception related to the WBCs' involvement in loan activities. The SBA loan programs include restrictions and protections against self-dealing that may not be present in other non-SBA lending programs. As such, other lending programs may present greater risk of conflicts of interest. The language in paragraphs (b)(5) and (6) of the rule remains the same to ensure compliance regarding WBC loan activities.

A comment was received regarding the WBC Program Director's participation in the loan process. The commenter suggested that the policies governing WBCs should exempt Certified Development Financial Institutions (CDFIs) in addition to SBA microlenders. The commenter also stated that the relationship between the WBC Director and the loan client is critical to the growth and success of the client's business and that the WBC Director maintains an ongoing relationship with clients through site visits and check-ins. This commenter further stated that the involvement of the WBC Program Director was critical to the loan process, not only for the SBA microlenders but also for the CDFIs. The SBA agrees that the role of the WBC Program Director is important in supporting access to capital. However, the WBC staff must limit their interaction in the loan process to loan packaging activities. The language in sections (b)(5) and (b)(6) of this rule remains the same to ensure compliance regarding WBC loan activities.

One commenter suggested that WBC Program Directors be allowed as much time as possible for fundraising activities. This rule does not propose restrictions on fundraising activities or the time allowed for fundraising. However, fundraising activities require prior approval from the Assistant Administrator of OWBO and must comply with 2 CFR 200.442.

131.340 SpecificWBC Program Responsibilities

In paragraph (c)(2), the WBC Program Director is required to have the necessary authority from the host organization to control all WBC budgets and expenditures. A commenter wrote that, while they support the requirement, many WBCs do not have this authority from the host organization. The commenter suggested that the regulations be revised to include guidelines on how the SBA will properly enforce this requirement. Because SBA's guidance in this area may develop over time based on practical experience, lessons learned, and changing circumstances, SBA believes that this guidance could be flexible and more effectively provided through annual program announcements rather than via regulation. Therefore, as a result of the comment received, this provision of the proposed rule has been removed.

131.350 Selection and Retention of the WBC Program Director

To ensure effective management of the WBC project, paragraph (a)(2) outlines the actions a WBC must take if there is a vacancy in the WBC Program Director position. Several commenters indicated that the 90-day timeframe included in the proposed rule did not allow sufficient time to recruit and hire a permanent WBC Program Director. While the SBA will uphold the 90-day requirement, the rule's language has been revised to allow the approved Interim WBC Program Director to remain in the position past 90 days upon obtaining the prior written approval from the Assistant Administrator of OWBO or designee.

Paragraph (a)(3) of the proposed rule requires an Interim Program Director to allocate his/her time and effort solely to the WBC Program until a permanent WBC Program Director is in position. A commenter suggested that an Interim Program Director may have other responsibilities within the recipient organization. The commenter also stated that while the Interim Program Director should allocate a large percentage of his/her time and effort to the WBC, it may not be possible or necessary to allocate all of his/her time and effort solely to the WBC Program. The SBA agrees with the commenter and has revised the language in this final rule.

Paragraph (b) outlines the SBA's process to ensure that candidates for the WBC Program Director position are qualified to manage the day-to-day operations of the WBC project. A comment was submitted stating that the SBA's involvement in the hiring of the WBC Program Director should be limited to reviewing legal issues such as conflict of interest, disbarment (sic), and payment of taxes. Additionally, the commenter stated that since the SBA grant represents partial funding for the WBC, not the entire funding, personnel decisions should be left to the discretion of the recipient organization. The SBA has determined that it is important to review a candidate's resume to ensure that the candidate has the core competencies outlined in paragraph (a)(1) of this rule. It should be noted that all funds (Federal, non-Federal cash match, and program income) included in the WBC budget are considered WBC project funds and constitute full funding for the project. Further, in adherence to 2 CFR 200.201(b)(5) and 2 CFR 200.308, changes in the project leader or key person require the prior written approval of the Federal awarding agency. Therefore, provisions of the proposed rule remain unchanged.

131.400 Application Procedures

Several commenters noted that the application process, especially for existing WBCs, is onerous and gives no deference to past performance. Further, several commenters recommended for the process to be streamlined. SBA concurs with those comments and has removed the sections related to application procedures (*e.g.,* new applications, renewals, and decisions) from the rule. This approach will afford SBA the flexibility to innovate and refine the application process based on practical experience as well as current Office of Management and Budget regulations. Subsequent sections of this rule have been renumbered reflecting this deletion.

Paragraph (b)(1) outlines application selection criteria, including the applicant organization's expertise in providing long-term and short-term training and counseling programs, and, most specifically, experience in providing targeted business development services to a distinct population.

A commenter suggested that the term ''distinct population'' be replaced with ''women.'' The commenter further stated that the selection criteria should be focused on the applicant's experience and commitment to helping women. The SBA agrees with the commenter that the focus of the program is women but will maintain the use of the term ''distinct population'' in this section of the rule, as the definition for ''distinct population'' specifically references women. However, the language has been revised to reference the definition for ''distinct population,'' which is included in the Definitions section of this rule.

131.520 Carryover of Federal Funds

This section limits the option to carry over any unexpended Federal funds to the next funding period to WBCs within the first or second year of an initial phase project only. Several commenters suggested that more flexibility is needed as there may be some circumstances that impact a Center's ability to expend funds. WBCs are responsible for matching all carryover funds. It has been the SBA's experience that when unexpended Federal funds are carried over to the next funding period, WBCs often have difficulty raising matching funds for both the carryover funds and the option year funds. This creates a situation in which the organization will match and spend the carryover funding but is then not able to spend the current year funding, thus creating a cycle where it must request carryover funding the following year. While there is never a penalty for requesting less funding, carryover funding represents an underutilization of the Federal funds provided. Also, elimination of the carryover does not preclude a Center from requesting the maximum amount of available funding the following year.

The SBA has given the issue of carryover funds further consideration and determined that based on the public comments received, it would be more efficient to address this issue via policy. Therefore, the language in this final rule has been revised accordingly.

131.530 Matching Funds

Paragraph (i)(l) outlines items that cannot be considered as sources of matching funds, including uncompensated student labor. A commenter requested that the prohibition of student labor for matching funds be clarified. The commenter explained that some WBCs, including those whose recipient organizations are universities, utilize university undergraduate and graduate students for substantive work. These students receive school credit for their work instead of monetary compensation. Lastly, the commenter suggested that the services provided by these students be allowed as matching funds. The SBA reviewed the issue and determined that a WBC can claim student volunteer time as an in-kind contribution, provided the WBC can document adequate valuation for the services. However, if a WBC is providing some form of tuition remission to the student volunteers and claiming that as a direct cost under its

grant (or including it in its indirect cost rate), then it cannot also claim that time as an in-kind contribution. If the WBC will not claim the student's time under the grant in some way, and if the WBC can adequately document the value of the services provided, then the WBC should be able to claim student volunteer time as an in-kind contribution. The SBA removed the language in the proposed rule that prohibited the use of student volunteer time as in-kind match. Relatedly, a commenter raised the notion of using the in-kind criteria established by the IRS and referenced in FASB FAS 116 which describes how volunteer service hours can used as match. OWBO disagrees with this comment and concludes that 2 CFR 200.96 and 2 CFR 200.306 is sufficient in this area and would also cover special circumstances such as allowing donated salaries to be used as cash match.

The SBA also received a comment that described the process used to validate match as tedious and burdensome. The commenter suggested that the match requirement be decreased significantly or eliminated entirely. Based on the public comments received regarding the match requirements, the Agency has determined to address this issue via policy and has removed paragraphs (d) through (h) of this section from the final rule.

131.570 Payments and Reimbursements

This section detailed the process through which advances and reimbursements were disbursed. Several commenters noted that the program had accumulated administratively burdensome requirements over its existence and where appropriate should be curtailed. Section 131.570 was removed as its provisions should implemented via policy.

131.600 Reports

This section lists the types and frequencies of reports required for submission. One commenter suggested that, while the SBA/OWBO has streamlined many of its reporting requirements, additional improvements could be made to eliminate duplication of time and effort. The commenter also indicated that the renewal application process could be shortened by simply updating the information that was included in the initial application. The requirement to submit a renewal application every three years is consistent with the Act. While this section of the rule does not provide information on the renewal application process (See § 131.420), the SBA has and will continue to streamline its application processes. For example, OWBO established a 10-page limit for the narrative response for renewal applications. Additionally, some of the forms previously required (*e.g.,* Cost Sharing (SBA 1224) and Certification Regarding Debarment, Suspension and Other Responsibility Matters—Primary Covered Transactions (SBA 1623)) are no longer required. Several commenters highlighted the need for the Agency to revamp its reporting processes. Based on the public comments, the Agency undertook a comprehensive review of its reporting requirements. Redundant and ineffective processes were identified and eliminated. As a result, the Agency identified a need for continuous improvement in this area and will remove this section from the final rule. This will allow the Agency flexibility to address reporting via policy and to modify those requirements as needed in order to make the WBC program more effective and efficient and to improve the delivery of its services. Subsequent sections of this rule have been renumbered accordingly reflecting this deletion.

131.900 Client Privacy

Several commenters noted that OWBO should provide clarity on the means, methods, and purpose of data collected by the program and should collect additional performance and demographic data. This desire for more data is hindered by § 131.900 and therefore the section has been removed from the final rule.

Compliance With Executive Orders 12866, 13563, 12988, 13132, and 13771, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

Executive Order 12866

The Office of Management and Budget has determined that this rule constitutes a ''significant regulatory action'' under Executive Order 12866. However, this is not a major rule under the Congressional Review Act, 5 U.S.C. 800.

The SBA provides a detailed Regulatory Impact Analysis for this final rule below.

Regulatory Impact Analysis

1. Is there a need for this regulatory action?

The WBC Program was established in 1988 as a pilot program and became permanent in 2007. Regulations for the WBC Program had not been previously promulgated. The SBA had used the program announcement and the notice of award to incorporate statutory requirements to implement the WBC Program. The annual program announcement and the notice of award have become, for all practical purposes, documents that interpret the statute. The SBA believes it is past time for regulations outlining guidance of the policies and procedures for the WBC Program. This regulation incorporates the changes required by 2 CFR part 200. The Office of Management and Budget (''OMB'') issued the ''Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Rule (Uniform Guidance) on December 26, 2013'', which is referred to as OMB ''Super Circular'' or ''Omni Circular'' and is codified at 2 CFR part 200. The Super Circular supersedes and streamlines requirements applicable to the administration, use and audit of federal grant funds by non-profit organizations, state, local and tribal governments, and colleges and universities. This regulation also encompasses other program changes that have taken place since the WBC Program was initially established. Additionally, the AWBC has supported implementing regulations to streamline and standardize processes.

2. What are the potential benefits and costs of this regulatory action?

In fiscal year 2016, the WBC Program received $17 million in Federal funds, which it provided to over 100 WBCs. The SBA also received $18 million in Federal funds for WBCs in fiscal year 2017. Grantees are required to supply a one-to-one match of those funds, except in the program's initial two years, during which time the required match is two-to-one (Federal to match). The benefit of this requirement is that the grantee is as invested as the Federal Government in ensuring the success of the WBC Program, while small businesses benefit from the no- or low-cost counseling and training.

The counseling and training services that the WBCs provide help educate small businesses to promote growth, expansion, innovation, increased productivity and management improvement. In 2017, the WBC Program assisted 148,106 clients. These clients benefitted from technical advice on topics like how to obtain loans, how to create a business plan, how to promote their business, and other areas. According to a 2016 WBC survey, clients of the WBC Program created 17,438 new business starts and received over $582,000,000 in capital infusion. Further, the potential benefits of this rule are based on both incorporating all of the changes that have occurred with the publication of 2 CFR 200 and a

streamlining of the program announcement and the notice of award. The new regulations further clarify the program announcement(s) issued by OWBO.

The costs to the SBA in making this revision are minimal, as most of the requirements of this rule are currently implemented and followed. The estimated annual cost to the Federal Government for oversight of the WBC Program is currently provided for in the existing SBA infrastructure.

The annual cost to the WBCs includes the burden at the time of application and the annual financial reporting required of WBCs. Over the past five years, there were a total of 133 new applications for the WBC Program, averaging 27 applications per year. The SF 424 (Application for Federal Assistance) on *grants.gov* does not include a field for revenue size; however, given that the majority of entities are small, the SBA can presume that the majority of applicant organizations are also small. It is projected that a grants writer would require approximately 20 hours to complete and submit the required application forms through *grants.gov*. Using the loaded wage for an accountant at $44.06 per hour (BLS does not publish a wage for grants writers so an accountant wage is used as a proxy; the 2018 hourly wage rate for an accountant is $33.89 and adding 30% for benefits totals $44.06 per hour), this would cost the applicant organization approximately $881 or a total cost of $23,787 to all applicants of the WBC program annually.

A participant in the WBC Program submits a Federal Financial Report and attachments twice a year, the estimated burden of which is two hours twice a year. The annual submission of a work plan requires substantially less time than the renewal application, as its purpose is to update the initial application to reflect any changes. The estimate for completion of the work plan and attachments on an annual basis is approximately 14 hours. Using the loaded wage for an accountant at $44.06 per hour, the estimated annual cost for a WBC would be $617. There are currently 113 entities that participate in the WBC Program for a total cost of $69,721.

Considering the cost to new applicants and the annual preparation of a work plan and attachments for participants, the annual cost of this rule is $93,508. The annualized cost of this rule in 2016 dollars is $89,740.

Comments were submitted regarding the costs considered in this rule. The commenters indicated that the section of the proposed rule describing the regulatory flexibility analysis minimizes the scope of WBC reporting requirements and grossly underestimates the cost and amount of time required. One commenter also suggested that, in addition to the cost and time required to submit an application, WBCs are required to submit a work plan each year. The commenter also identified the multiple reporting requirements (*e.g.,* EDMIS quarterly reports, semi-annual or quarterly narrative and financial reports) as burdensome to the WBCs. While the commenter did not provide an estimate of time or cost for the tasks referenced in this section, the proposed rule estimated a burden to complete the required forms and reports annually at 14 hours of work. The estimate of 14 hours refers only to the time it would take on average to complete WBC application documents. Also, contrary to the statement provided by the commenter, WBCs are not required to submit an application and a work plan each year. Centers are required to submit either an application (if in a renewal phase) or a work plan (if in an option year) annually. Furthermore, there are no additional costs for the submission of budgetary and performance reports as the cost for these activities is already included as part of the funds provided to the WBC to manage the program. This rule serves to codify existing requirements. Further, the work plan submissions require narratives that do not exceed five pages. The SBA will, however, continue to explore ways to further reduce and simplify reporting requirements.

3. What alternatives have been considered?

After publishing the ANPRM on April 22, 2015, the NPRM on November 22, 2016, and reviewing the comments submitted, the SBA believes that publishing regulations for the WBC Program would be the best way to create long-lasting consistency in the implementation of the WBC Program. The alternative would be to not publish regulations and instead continue to rely on grant documents to implement the WBC Program. However, 15 U.S.C. 656(n)(3) requires the SBA to issue regulations establishing standards for financial audit disclosures. Because the SBA is required to issue regulations for part of the WBC Program, the Agency believes it would be more beneficial to grantees and the public to issue regulations establishing one set of rules for the program as a whole rather than relying upon a piecemeal approach utilizing a mix of regulations and grant documents to govern the program.

Executive Order 13563

Prior to developing this final rule, the SBA issued an ANPRM on April 22, 2015, to solicit comments. Additionally, public comments were solicited as part of the NPRM issued on November 22, 2016. Further, the OWBO staff attended the annual WBC training conferences to discuss policy, procedures, and the proposed regulations.

Comments for both the ANPRM and NPRM can be found at: *https://www.regulations.gov/docketBrowser?rpp=50&so=DESC&sb=postedDate&po=0&dct=PS&D=SBA-2015-0007*.

The SBA did not receive any comments from other Federal Agencies.

Executive Order 12988

For the purposes of Executive Order 12988, Civil Justice Reform, the SBA has determined that this final rule is drafted, to the extent practicable, in accordance with the standards set forth in Sec. 3(a) and 3(b)(2), to minimize litigation, eliminate ambiguity, and reduce burden. The regulations provide for WBC Program participants' rights of appeal in the event they are aggrieved by an Agency decision, thereby limiting the possibility of litigation. This final rule does not have retroactive or pre-emptive effect.

Executive Order 13132

For the purposes of Executive Order 13132, the SBA has determined that this rule has no federalism implications warranting preparation of a federalism assessment.

Executive Order 13771

This final rule is an Executive Order 13771 regulatory action with an annualized cost in 2016 dollars of $89,740 and a net present value of $1,281,998. There are several unquantifiable benefits of the WBC program for small businesses including new business starts and capital infusion. Details on the estimated costs and a discussion of the benefits of this final rule can be found in the rule's regulatory impact analysis.

Compliance With the Regulatory Flexibility Act, 5 U.S.C. 601–612

When an agency issues a rule, the Regulatory Flexibility Act (RFA) requires the agency to prepare a final regulatory flexibility analysis (FRFA), which describes whether the rule will have a significant economic impact on a substantial number of small entities. However, Section 605 of the RFA allows an agency to certify a rule, in lieu of

preparing a FRFA, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

The counseling and training services that the WBCs provide help educate small businesses to promote growth, expansion, innovation, increased productivity and management improvement. In 2017, the WBC Program assisted 148,106 clients. These clients benefitted from technical advice on topics like how to obtain loans, how to create a business plan, how to promote their business, and other areas. According to a 2016 WBC survey, clients of the WBC Program created 17,438 new business starts and received over $582,000,000 in capital infusion.

Further, the potential benefits of this rule are based on both incorporating all of the changes that have occurred with the publication of 2 CFR part 200 and a streamlining of the program announcement and the notice of award. The new regulations further clarify the program announcement(s) issued by OWBO.

This rule covers both the application process to become funded as a WBC and the on-going operations for currently funded WBCs. As these populations are different, the analysis is included for each.

This final rule could theoretically affect all nonprofit entities, as the statute requires that an entity be organized as a nonprofit in order to participate. According to the IRS, for tax year 2010 there were over 269,000 entities that filed returns as a 501(c)(3). The North American Industry Classification System (NAICS) codes that are most relevant to participation in the WBC program are 541611, Administrative Management and General Management Consulting Services and 541990, All Other Professional, Scientific and Technical Services. The size standard for both of these NAICs codes is $15 million in average annual receipts. According to the IRS, 92 percent of all 501(c)(3) filers had total revenue greater than $10 million. The majority of the 501(c) entities would fall under the threshold as a small entity. In addition, as the application process is voluntary and does not require a nonprofit entity to apply, the vast majority of nonprofits would not be affected. Over the past five years, there were a total of 133 new applications for the WBC Program, averaging between 25 and 35 applications per year. The SF 424 (Application for Federal Assistance) on *grants.gov* does not include a field for revenue size; however, given that the majority of entities are small, the SBA can presume that the majority of applicant organizations are also small. It is projected that a grants writer would require approximately 20 hours to complete and submit the required application forms through *grants.gov.* Using the loaded wage for an accountant at $44.06 per hour, this would cost the applicant organization approximately $881. These estimates are based on burden statements associated with the *grants.gov* application forms and anecdotal information supplied by applicant organizations to the WBC Program. Therefore, the SBA has determined that the application section of the final rule would not have a significant impact on a substantial number of small entities.

There are currently 113 entities that participate in the WBC Program, all of which are small entities. A participant in the WBC Program submits a Federal Financial Report and attachments twice a year, the estimated burden of which is two hours twice a year. The annual submission of a work plan requires substantially less time than the renewal application, as its purpose is to update the initial application to reflect any changes. The estimate for completion of the work plan and attachments on an annual basis is approximately 14 hours. Using the loaded wage for an accountant at $44.06 per hour, the estimated annual cost would be $617. Therefore, the SBA has determined that the financial reporting section of the final rule would not have a significant impact on a substantial number of small entities.

Comments were submitted regarding the SBA's compliance with the Regulatory Flexibility Act (RFA). The commenters indicated that the section of the proposed rule describing the regulatory flexibility analysis minimizes the scope of WBC reporting requirements and grossly underestimates the cost and amount of time required. One commenter also suggested that, in addition to the cost and time required to submit an application, WBCs are required to submit a work plan each year. The commenter also identified the multiple reporting requirements (*e.g.,* EDMIS quarterly reports, semi-annual or quarterly narrative and financial reports) as burdensome to the WBCs. While the commenter did not provide an estimate of time or cost for the tasks referenced in this section, the proposed rule estimated a burden to complete the required forms and reports annually at 14 hours of work. The estimate of 14 hours refers only to the time it would take on average to complete WBC application documents. Also, contrary to the statement provided by the commenter, WBCs are not required to submit an application and a work plan each year. Centers are required to submit either an application (if in a renewal phase) or a work plan (if in an option year) annually. Furthermore, there are no additional costs for the submission of budgetary and performance reports as the cost for these activities is already included as part of the funds provided to the WBC to manage the program. This rule serves to codify existing requirements. Further, the work plan submissions require narratives that do not exceed five pages. The SBA will, however, continue to explore ways to further reduce and simplify reporting requirements.

Accordingly, the Administrator of the SBA hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act, 44 U.S.C., Ch. 35

The SBA has determined that this final rule will not impose additional reporting and recordkeeping requirements under the Paperwork Reduction Act (PRA), 44 U.S.C. Chapter 35. Currently, the following eight PRA submissions are associated specifically with the WBC Program: (1) OMB control number 3245–0140, Notice of Award and Cooperative Agreement; (2) OMB control number 3245–0169, Federal Cash Transaction Report, Financial Status Report, Program Income Report, and Narrative Program Report; (3) OMB control number 3245–0324, EDMIS data collection (Forms 641 and 888); (4) OMB control number 4040–0004, SF 424, Application for Financial Assistance; (5) OMB control number 4040–0006, SF 424A, Budget Summary for Non-Construction Projects; (6) OMB control number 4040–0007, SF 424B, Assurances for Non-Construction Projects; (7) OMB control number 4040–0013, SF–LLL, Disclosure of Lobbying Activities; and (8) 4040–0014SF–425, Federal Financial Report. These reports will not change and no new reports are required in this final rule.

List of Subjects in 13 CFR Part 131

Entrepreneurship, Grant programs—business, Minority businesses—women, Reporting and recordkeeping requirements, Small businesses.

■ For the reasons stated in the preamble, SBA adds 13 CFR part 131 to read as follows:

PART 131—WOMEN'S BUSINESS CENTER PROGRAM

Sec.

131.100 Introduction.
131.110 Definitions.
131.200 Eligible entities.
131.300 Women's Business Centers (WBCs).
131.310 Operating requirements.
131.320 Area of service.
131.330 WBC services and restrictions on service.
131.340 Specific WBC program responsibilities.
131.350 Selection and retention of the WBC Program Director.
131.400 Grant administration and cost principles.
131.410 Maximum grant.
131.420 Carryover of Federal funds.
131.430 Matching funds.
131.440 Program income and fees.
131.450 Budget justification.
131.460 Restricted and prohibited costs.
131.470 Payments and reimbursements.
131.500 Oversight of the WBC program.
131.510 SBA review authority.
131.520 Audits, examinations, and investigations.
131.600 Cooperative agreement and contracts.
131.610 Other Federal grants.
131.620 Revisions and amendments to cooperative agreements.
131.630 Suspension, termination, and non-renewal.
131.640 Dispute procedures.
131.650 Closeout procedures.

Authority: 15 U.S.C. 656.

§ 131.100 Introduction.

(a) The Women's Business Centers (WBC) program has grown and evolved to provide a variety of services to many entrepreneurs ranging from those interested in starting businesses to those looking to expand an existing business.

(b) The U.S. Small Business Administration (SBA), through the Office of Women's Business Ownership (OWBO), is responsible for the general management and oversight of the WBC program. The SBA issues an annual cooperative agreement to recipient organizations for the delivery of assistance to individuals and small businesses. The WBC program acts as a catalyst for providing in-depth, substantive, outcome-oriented business services, including training, counseling, and technical assistance, to women entrepreneurs and both nascent and established businesses, a representative number of whom are socially and economically disadvantaged. By providing training and counseling on a wide variety of topics through WBCs, the SBA meets the needs of the individual client in the local marketplace.

(c) Unless otherwise indicated, all deadlines referred to in this Part are measured in terms of calendar days.

§ 131.110 Definitions.

Advisory board. A group established to confer with and provide recommendations to the WBC Program Director on matters pertaining to the operation of the WBC. The advisory board will also act as a catalyst to raise funds for the WBC.

Applicant organization. An entity that applies for Federal financial assistance to establish, administer, and operate a WBC under a new or renewed cooperative agreement.

Application (also known as the proposal). The written submission by a new applicant organization or an existing recipient organization describing its projected WBC activities for the upcoming budget period and requesting SBA funding for use in its operations.

Annual work plan. See option year work plan and budget.

Area of service. The State or U.S. Territory, or a regional portion of a State or U.S. Territory, in which the SBA approves a WBC to provide services.

Assistant Administrator of the Office of Women's Business Ownership. (AA/OWBO). The AA/OWBO is statutorily responsible for management of the WBC program. The AA/OWBO may elect to designate staff to complete tasks assigned to the AA/OWBO position. When AA/OWBO is referenced, it includes the designee.

Associate Administrator for the Office of Entrepreneurial Development. (AA/OED). The AA/OED is responsible for enhancing the nationwide network of offices, business executives, and mentors that support current and aspiring business owners as they start, grow, and expand in today's global market. This nationwide network includes the following Resource Partners: Women's Business Centers (WBCs), Small Business Development Centers (SBDCs), and SCORE.

Authorized official. A person who has the legal authority to sign for and/or speak on behalf of an organization.

Budget period. The period of performance in which expenditures and obligations are incurred by a WBC, consistent with 2 CFR 200.77.

Carryover funds (carryover). Unobligated Federal funds reallocated from one budget period to the next through an amendment to the current year's cooperative agreement.

Cash match. Non-Federal funds specifically budgeted and expended by the recipient organization for the operation of a WBC project. Cash match must be in the form of cash and/or program income.

Client. An entrepreneur or existing small business seeking services provided by a WBC.

Client record. A record that provides individual client contact information, client/business demographics, and documentation of the services provided. Additionally, the record provides aggregate data about a training event, including topic, date, attendance, format, and evaluation.

Cognizant agency for audit. The Federal agency designated to carry out the responsibilities as described in 2 CFR 200.513(a).

Cognizant agency for indirect costs. The Federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals developed under 2 CFR 200.19.

Conditional approval. An approval granted when an application has been determined to meet eligibility requirements and has been recommended for funding, but requiring special conditions, such as submitting certifications, assurances, or other documentation.

Cooperative agreement (also known as notice of award). A legal instrument of financial assistance between the SBA and a recipient organization that is consistent with 31 U.S.C. 6302–6305 and provides for substantial involvement between the SBA and the recipient organization in carrying out the proposed activities.

Counseling. Services provided to an individual and/or small business owner that are substantive in nature, require assistance from a resource partner or SBA district office personnel regarding the formation, management, financing, and/or operation of a small business enterprise, and are specific to the needs of the business or individual.

Direct costs. Costs as defined in 2 CFR 200.413.

Dispute. A programmatic or financial disagreement that the recipient organization requests be handled according to the dispute resolution procedures under § 131.840.

Distinct population. A specific targeted group. For the purpose of the WBC program, the targeted group is women entrepreneurs.

District office. The local SBA office charged, in collaboration with the WBCs, with meeting the needs of women entrepreneurs in the community.

Financial examiner. An SBA employee, or designee, charged with conducting financial examinations.

Full-time. An employee all of whose time and effort (minimum of 30 hours per week, as defined by the Internal Revenue Service, § 4980H(c)(4)) is allocated to the WBC project. An employee who is full-time under the WBC should not engage in activities that do not pertain to the WBC project.

Grants and Cooperative Agreement Appeals Committee. The SBA committee, appointed by the SBA Administrator, to resolve appeals arising from disputes between a recipient organization and the SBA.

Grants Management Officer. An SBA employee who meets the Office of Management and Budget standards and certifications to obligate Federal funds by signing a notice of award.

Grants management specialist. An SBA employee responsible for the budgetary review and financial oversight of WBC agreements.

Indirect costs. Costs as defined in 2 CFR 200.56.

In-kind contributions (third party). Costs incurred as described in 2 CFR 200.96.

Interim Program Director. An individual temporarily assigned by the recipient organization to fulfill the responsibilities of a vacant WBC Program Director position for no more than 90 days.

Key personnel/key employee. For the purposes of the WBC program, the WBC Program Director is identified as the key employee.

Loan packaging. Includes any activity done in support of a client or in preparation of the client's credit application to a lender for a loan, line of credit, or other financial instrument.

Matching funds. For all Federal awards, any shared costs or matching funds and all contributions, as defined in 2 CFR 200.306.

Microloan. A loan as specified in 13 CFR 120.701.

Non-Federal entity. An organization as defined in 2 CFR 200.69.

Nonprofit organization. Any corporation, trust, association, cooperative, or other organization as defined in 2 CFR 200.70.

Notice of award (NOA). See cooperative agreement.

Office of Women's Business Ownership Program Analyst. An SBA employee designated by the AA/OWBO who oversees and monitors WBC operations.

Option year. Additional 12-month budget period awarded after the first budget year (base year) as determined by the period of performance identified in the cooperative agreement.

Option year work plan and budget. The written submission by an existing WBC applying for an additional year of grant funding. This submission is required to ensure the recipient organization's continued alignment with the WBC program and to update its description of projected WBC activities for the upcoming option year budget period.

Overmatch. Any non-Federal contribution applied to the WBC award in excess of the minimum amount of match required. See § 131.530 for specific details on match requirements.

Period of performance. The period of time as specified in 2 CFR 200.77.

Principal investigator. The individual primarily responsible for achieving the technical success of a project, while also complying with the financial and administrative policies and regulations associated with the grant.

Prior approval. The written concurrence from the appropriate Office of Women's Business Ownership official for a proposed action or amendment to a WBC cooperative agreement. Specific guidelines governing the prior approval process, including the documentation required, are outlined in the cooperative agreement.

Program announcement. The SBA's annual publication of requirements, to which an applicant organization must respond in its five-year initial or three-year renewal application.

Program income. Gross income earned by a non-Federal entity, as described in 2 CFR 200.80.

Project funds. All funds authorized under the cooperative agreement including Federal funds, non-Federal cash, in-kind contributions (third party), and program income, as well as any Federal funds and/or non-Federal match authorized or reported as carryover funds.

Project period. The period of time specified in the notice of award, which identifies the start and end date of a recipient organization's five-year or three-year project.

Recipient organization. An applicant organization selected to receive Federal funding to deliver WBC services under a cooperative agreement. By statute, only private, nonprofit organizations certified under § 501(c) of the Internal Revenue Code of 1986 can be recipient organizations.

Socially and economically disadvantaged women. As defined by 13 CFR 124.103 and 124.104, respectively.

Specialized services. WBC services other than basic counseling and training. The services can include, but are not limited to, assistance with disaster readiness; assistance to home-based businesses; assistance to agribusinesses; and assistance to construction, childcare, elder care, manufacturing or procurement businesses.

State or U.S. Territory. For the purpose of these regulations, the 50 United States, and the U.S. Territories of Guam, the U.S. Virgin Islands, American Samoa, the Northern Mariana Islands, the Commonwealth of Puerto Rico and the District of Columbia.

Training. A qualified activity or event, presented or cosponsored by a WBC, that delivers a structured program of knowledge, information, or experience on an entrepreneurial or business-related subject.

WBC Program Director. An individual whose time and effort is allocated solely to the WBC program. The WBC Program Director position is the only position that requires approval from the Office of Women's Business Ownership prior to hiring.

Women's Business Centers (WBCs). WBCs represent a national network of educational centers throughout the United States and its territories that assist women in starting and growing small businesses.

Women-owned businesses. A business concern that is not less than 51 percent owned by one or more women; additionally, its management and daily operations are controlled by one or more women.

§ 131.200 Eligible entities.

(a) *Eligible organizations.* By statute, only a nonprofit organization with active 501(c) certification from the United States Department of the Treasury/Internal Revenue Service is eligible to apply for Federal funding to operate a WBC project.

(b) *Ineligible organizations.* Organizations ineligible to receive Federal funds to manage a WBC project include, but are not limited to, the following:

(1) Any organization that owes an outstanding and unresolved financial obligation to the Federal Government;

(2) Any organization, employee, or principal investigator of an organization that is currently suspended, debarred, or otherwise prohibited from receiving awards, contracts, or grants from the Federal Government;

(3) Any organization with an outstanding and unresolved material deficiency reported under the requirements of the Single Audit Act within the past three years, consistent with 2 CFR 200.501;

(4) Any organization that has had a grant or cooperative agreement involuntarily terminated or non-renewed by the SBA for cause/material non-compliance;

(5) Any organization that has filed for bankruptcy within the past five years;

(6) Any organization that does not propose to hire and employ a full-time WBC Program Director whose time is solely dedicated to managing the day-to-day operation of the WBC and staff;

(7) Any organization that proposes to serve as a pass-through and permit

another organization to manage the day-to-day operations of the project;

(8) Any organization that had an officer or agent acting on its behalf convicted of a felony criminal violation under any Federal law within the preceding 24 months; or

(9) Any other organization the SBA reasonably determines to be ineligible to receive Federal funds to manage a WBC project.

§ 131.300 Women's Business Centers (WBCs).

Women's Business Centers (WBCs) are established under the statutory authority of the SBA through cooperative agreements with nonprofit recipient organizations. WBC program announcements and requests for work plans and budgets establish the operating and performance parameters, initiatives, and strategies for each project period.

(a) *Program announcements.* (1) The SBA will issue a program announcement each fiscal year to fund those recipient organizations already operating successful WBC projects. The program announcement will detail the goals, objectives, and other terms and conditions for renewable projects entering a three-year phase of the program. The issuance of the program announcement is contingent upon SBA's approved budget and funding availability.

(2) At any time during the current fiscal year, and based on the availability of funds, the SBA may, at its discretion, also issue a program announcement for the upcoming fiscal year, detailing the goals, objectives, and other terms and conditions for new WBC projects. New WBC projects may be awarded a maximum of one base year and 4 additional option years of funding.

(3) The SBA reserves the right to cancel a program announcement, in whole or in part, at the agency's discretion.

(b) *Option year work plans and budgets.* (1) Each year, the SBA will issue instructions for the submission of the option year work plan and budget for those WBCs currently in (and wishing to continue in) the SBA's WBC program that will have successfully completed year one, two, three or four of an initial project, or year one or two of a renewal project. In order to be considered for renewal, submissions for option year work plans and budget must be received by OWBO by the deadline specified in the annual instructions for the submission of each work plan.

(2) The SBA reserves the right to revise the submission requirements, in whole or in part, at the Agency's discretion.

(3) Awarding option year funding is at the sole discretion of the SBA and is subject to continuing program authority, the availability of funds, and satisfactory performance by the recipient organization.

(c) *Cooperative agreement.* (1) The terms and conditions must include, but are not limited to, Office of Management and Budget guidelines for grant administration and cost principles, regulations and laws governing the WBC project and federally sponsored programs, and current year guidelines from the program announcement.

(2) The SBA will issue a notice of award annually to each eligible WBC participant, based on the acceptance of the organization's annual proposal or work plan.

(d) *Negotiating the cooperative agreement.* The WBC's participation in negotiations should include, but is not limited to, the following:

(1) Proposing services and an appropriate delivery structure to meet the needs of the local small business community, specifically targeting women, including a representative number of women who are socially and economically disadvantaged; and

(2) Proposing adequate technical and managerial resources for the WBC to achieve its performance goals and program objectives, as set forth in the cooperative agreement.

(e) *Women's Business Center (WBC) funds.* Budgeted WBC funds (including match) must be used solely for the WBC project.

§ 131.310 Operating requirements.

(a) The recipient organization has contractual responsibility for the duties of the WBC project, which must be a separate and distinct entity within the recipient organization, having its own budget, staff, and full-time WBC Program Director.

(b) The WBC must establish an advisory board that is representative of the community it will serve and that will confer with and provide recommendations to the WBC Program Director on matters pertaining to the operation of the WBC. The advisory board will also assist the WBC in meeting the match requirements of the program.

(c) An employee who is full-time under the WBC program should not engage in activities that do not pertain to the WBC project. The WBC is not prohibited from operating other Federal programs that focus on women or other underserved small business concerns if doing so does not hinder its ability to deliver the services of the WBC program.

(d) The WBC must have facilities and administrative infrastructure sufficient for its operations, including program development, program management, financial management, reports management, promotion and public relations, program assessment, program evaluation, and internal quality control. The WBC must document annual financial and programmatic reviews and evaluations of its center(s) consistent with Agency policy.

(e) Any new applicant that is accepted into the WBC program after January 24, 2020 must include as part of its official name the specific identification ''Women's Business Center.'' For the purpose of the WBC program, the official name used is the name assigned to the WBC by the host organization. The legal name of the organization is the name of the host organization and is the name usually listed on line 7a of the Application for Federal Assistance, SF 424. Any WBC that is applying for a renewal grant after January 24, 2020 must also include the specific identification ''Women's Business Center'' as part of its official name. Until such time that any existing WBC has to submit a renewal application to the SBA for funding, and does not currently include ''Women's Business Center'' in its official name, it must include the following language prominently on its website and promotional documents: ''The Women's Business Center is funded in part by the U.S. Small Business Administration.'' However, at the time of submission of its renewal application, it must include WBC as part of its official name.

(f) The WBC must maintain adequate staff to operate the WBC, including the WBC Program Director and at least one other person, preferably a business counselor.

(g) The WBC must use an enforceable conflict-of-interest policy that is consistent with the requirements of 2 CFR 2701.112.

(h) The WBC must be open to the public a minimum of 40 hours a week (which must include evening and weekend hours) and meet other requirements as specified in the program announcement. Emergency closures must be reported to the district office and Office of Women's Business Ownership Program Analyst as soon as is feasible.

(i) The WBC must comply with 13 CFR parts 112, 113, 117, and 136 requiring that no person be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or

activity conducted by the WBC. However, all WBC marketing programs and services must target women.

(j) The WBC project must not be listed in the organizational structure under any other Federal grant.

§ 131.320 Area of service.

(a) *Cooperative agreement.* The recipient organization will identify in its application the geographic area for which it plans to provide assistance and should strive to not duplicate services to the same client population as an existing WBC. Once approved, the AA/OWBO will codify, in writing, the geographic area of service of each recipient organization. More than one recipient organization may be located in a State, Territory, or other geographic area. Once the SBA has entered into a cooperative agreement with a recipient organization, the area of service cannot be changed without prior approval by the AA/OWBO. A subsequent decision by the recipient organization to change the area of service in the cooperative agreement without prior approval by OWBO may constitute grounds for suspension, non-renewal, and/or termination as set forth in § 131.830.

(b) *Location of WBC projects.* An applicant organization responding to a program announcement and within proximity of an existing WBC project shall provide in its written narrative a justification for placing another WBC in the proximity of an existing WBC, including the number of socially and economically disadvantaged persons within the proposed service area, relevant census data, and information on population density. The information provided must clearly justify the necessity for an additional WBC project within the same area of service as the existing WBC project. The SBA will take the narrative and any supporting documentation into consideration when reviewing, ranking, and scoring the applicant organization's proposal.

(c) *Resources.* An applicant organization's plan for the commitment and allocation of resources, including the site from which the WBC plans to provide services, will be reviewed as part of the application review process for each budget period to ensure adequate coverage in the area of service.

§ 131.330 WBC services and restrictions on services.

(a) *Services.* The WBC must provide prospective entrepreneurs and existing small businesses, known as clients, with training, counseling, and specialized services. The services provided must relate to the formation, financing, management, and operation of small business enterprises. The WBC must create and update client records to document each time that services are provided to a client. The WBC must provide services that meet local needs as determined through periodic needs assessments; additionally, services must be adjusted over time to meet changing small business needs. Any changes to the scope of services must be in accordance with § 131.820.

(b) *Access to capital.* (1) WBCs must provide training and counseling services that enhance a small business concern's ability to access capital, such as business plan development, financial statement preparation/analysis, and cash flow preparation/analysis.

(2) WBCs may provide loan packaging services and other related services to WBC clients and may charge a fee for such assistance (see § 131.540). Any fees so generated will constitute program income. The WBC must ensure that these services are not credited to both the WBC program and any other Federally-funded program, thereby double counting the efforts.

(3) WBCs shall prepare their clients to represent themselves to lending institutions. WBC personnel may attend meetings with lenders to assist clients in preparing financial packages; however, neither WBC staff nor their agents may take a direct or indirect role in representing clients in any loan negotiations.

(4) WBCs shall disclose to their clients that financial counseling assistance, including loan packaging, will not guarantee receipt or imply approval of a loan or loan guarantee.

(5) WBCs must not intervene in loan decisions, service loans, make credit recommendations, or otherwise influence decisions regarding the award of any loans or lines of credit on behalf of the WBC's clients, unless the WBC operates as an SBA Microloan Intermediary and is awarding an individual or small business concern an SBA microloan.

(6) When the recipient organization operates both a WBC and a separate loan program, the WBC must disclose to the client other financing options that may be available besides the one offered by the recipient organization to ensure that the client has the opportunity to seek financing outside of the recipient organization. If the recipient organization operates an SBA loan program, it must comply with § 120.140 of this chapter.

(7) WBCs must disclose to loan packaging clients any financial relationships between the WBC and a lender or the sale of their credit products.

(8) With respect to loan programs, allowable activities include the following: assisting clients in formulating a business plan, preparing financial statements, completing forms that are part of a loan application, and accompanying an applicant appearing before the SBA or other lenders. See paragraph (b)(5) of this section for further limitations.

(9) WBCs are to collaborate with state, local, and Federal government agencies to identify other resources that may be available to its clients and to facilitate interactions deriving from these collaborations.

(c) *Special emphasis initiatives.* In addition to requiring WBCs to assist women entrepreneurs, including a representative number of women who are socially and economically disadvantaged, the SBA may identify and include in the cooperative agreement other portions of the general population that WBCs must target for assistance.

§ 131.340 Specific WBC program responsibilities.

(a) *Policy development.* The AA/OWBO will establish and modify WBC program policies and procedures to improve the delivery of services by WBCs to the small business community and to enhance compliance with applicable laws, regulations, Office of Management and Budget guidelines, and Executive Orders.

(b) *Program administration.* The AA/OWBO will recommend the annual program budget, establish appropriate funding levels in compliance with the statute, and review the annual budgets submitted by each organization.

(c) *Responsibilities of WBC Program Director.* (1) The WBC Program Director must be a full-time employee of the recipient organization and not a contractor, consultant, or company. The WBC Program Director will direct and monitor all program activities and all financial affairs of the WBC to ensure effective delivery of services to the small business community and compliance with applicable laws, regulations, Office of Management and Budget circulars, Executive Orders, and the terms and conditions of the cooperative agreement.

(2) The WBC Program Director may not manage any other programs under the recipient organization.

(3) The WBC Program Director will serve as the SBA's principal contact for all matters involving the WBC.

(d) *Principal investigator.* The principal investigator is primarily responsible for achieving the technical success of the project while also

complying with the financial and administrative policies and regulations associated with the grant. Although principal investigators may have administrative staff to assist them with the management of the project, the ultimate responsibility for the management of the project rests with the principal investigator. The principal investigator of a recipient organization could also fill the role of Executive Director, WBC Program Director, President/CEO, or another key position.

§ 131.350 Selection and retention of the WBC Program Director.

(a) *General.* (1) The WBC Program Director selected to manage the daily operations of the WBC shall possess core competencies in the areas of business and/or entrepreneurship training, project and/or small business management, effective communication, and collaboration.

(2)(i) The recipient organization must provide written notification to the AA/OWBO or his/her designee within five business days following a vacancy in a WBC Program Director position. The notification must include the date the former WBC Program Director vacated the position, as well as the name, resume, salary, date of appointment, and contact information for the person assigned the role of the WBC Interim Program Director. If the WBC Program Director temporarily vacates the position, the notification must include the projected date of return. The placement of an Interim Program Director does not require the submission of a key personnel change request; however, the information outlined in this section must be submitted to the OWBO Program Analyst, via email, consistent with the required timeframe.

(ii) The Interim Director may not remain in the position more than 90 calendar days from the date of the vacancy without written approval from the AA/OWBO. The recipient organization must document the appointment of the Interim Program Director in accordance with its policies and procedures and the cooperative agreement.

(3) An Interim Program Director must allocate a sufficient amount of his/her time and effort to management of the daily operations of the WBC program until a permanent WBC Program Director is in position.

(4) Within 30 days from the date of the vacancy, the recipient organization must provide OWBO with its plan of how it will ensure that a full-time WBC Program Director is hired within the 90 day timeframe allocated.

(5) If it is anticipated that the Interim Program Director will be in the position for more than 90 days, prior to the end of the 90 day period, the recipient organization must submit a written request to the OWBO Program Analyst for approval of an extension. OWBO is not required to reimburse personnel costs for any WBC Interim Program Director that remains in the position for more than 90 days without prior written approval.

(b) *SBA involvement.* The AA/OWBO will review the selection of the new WBC Program Director submitted by the recipient organization to ensure the candidate selected is qualified and their hiring would not present a conflict of interest or similar concern that would negatively affect the WBC's ability to carry out project and program objectives.

(c) *Recruitment activity and associated costs.* Allocable personnel compensation and benefits costs are as provided in 2 CFR 200.463.

§ 131.400 Grant administration and cost principles.

Upon approval of a WBC's initial or renewal application, the SBA will enter into a cooperative agreement with the recipient organization, setting forth the programmatic and fiscal responsibilities of the recipient organization and the SBA, the scope of the project to be funded, and the budget for the period covered by the cooperative agreement. The WBC program adopts and implements Office of Management and Budget regulations as published and amended in 2 CFR part 200. Additional qualifications or clarifications may be promulgated through the program announcement, a revised notice of award, or the regulatory process.

§ 131.410 Maximum grant.

No individual WBC project will receive a WBC grant in any fiscal year under a cooperative agreement in excess of the amount authorized by statute. While an individual WBC project cannot exceed the statutory limit, a recipient organization is not limited from establishing multiple WBC projects as long as the projects are distinct from each other and are serving distinct populations that would not otherwise be served.

§ 131.420 Carryover of Federal funds.

The AA/OWBO will approve requests for carryover on a case-by-case basis. In doing so, the AA/OWBO will take into account the amount of carryover requested, whether the WBC currently has any funds carried over from prior years, the WBC's record of utilizing all of its awarded funding or providing the required level of match, and any factors beyond the WBC's control that impeded its ability to conduct project activities as originally proposed.

§ 131.430 Matching funds.

(a) The recipient organization must provide matching funds equal to one-half of the Federal funding received for the first two years of its initial award (a statutory match ratio of 2:1 Federal to non-Federal funding). For the remainder of the time the recipient organization is in the WBC program, it must provide matching funds of one dollar for every dollar of its annual Federal award amount (a statutory match ratio of 1:1 Federal to non-Federal funding). At least 50 percent of the matching funds must be in cash (the sum of non-Federal cash and program income). The remaining 50 percent may be provided through allowable combinations of cash, in-kind contributions (third party), or authorized indirect costs.

(b) Once the cash match and total match requirements have been met, any additional matching funds are considered overmatch. WBCs may provide overmatch if they choose to do so; however, if they have used Federal funds to raise match above the required amount, the funds must only be used to meet the Federal objective of the WBC program and must be verifiable from the non-Federal entity's records. All funds allocated to a WBC project through a budget proposal are subject to Federal rules and regulations, consistent with 2 CFR part 200. The funds must also be used solely for the WBC project. However, this does not prohibit WBC recipient organizations from raising funds separately and apart from the WBC program. Those funds that are not raised with WBC funds and are not used as match are not subject to the same recordkeeping requirements as they are not tied to the WBC program.

(c) If the recipient organization indicates difficulty in meeting the match requirement, it can request a reduction of the Federal award. For specific guidance regarding the allowability, valuation, and documentation of match please see 2 CFR 200.306.

§ 131.440 Program income and fees.

(a) Program income, including any interest earned on program income, may only be used for authorized purposes and in accordance with the cooperative agreement. Program income may be used as matching funds and, when expended, is counted towards the cash match requirement of the award. Program income must be used to expand

the quantity or quality of services and for resources or outreach provided by the WBC project.

(b) Unused program income may be carried over to the subsequent budget period by a WBC. The WBC must report the consolidated program income sources and uses.

(c) A WBC may charge clients a reasonable fee for services, including training and counseling provided by the WBC (sponsored or cosponsored), the sale of books, or the rental of equipment or space. Any fees so generated will constitute program income, and such fees must not restrict access to any services for economically disadvantaged entrepreneurs.

§ 131.450 Budget justification.

General. The WBC Program Director or finance person of the non-Federal entity will prepare and submit the budget justification for the upcoming program/budget period for review by the SBA as part of the WBC's application package pursuant to the applicable program announcement. Worksheets are provided by OWBO for this purpose.

§ 131.460 Restricted and prohibited costs.

SBA prohibitions are consistent with those set forth in 2 CFR part 200.

(a) A WBC may not use project funds as collateral for a loan, assign an interest in them, or use them for any other such monetary purpose.

(b) Use of project funds in violation of these restrictions may be cause for termination, suspension, or non-renewal of the cooperative agreement.

§ 131.500 Oversight of the WBC program.

(a) The AA/OWBO will monitor the WBC's performance and its ongoing operations under the cooperative agreement to determine if the WBC is making effective and efficient use of program funds, in compliance with applicable law and other requirements, for the benefit of the small business community.

(b) The AA/OWBO may revoke delegated authority of oversight responsibilities at any time it is deemed necessary and will notify the recipient organization of such a change in a timely manner.

§ 131.510 SBA review authority.

To ensure compliance and the effectiveness of WBCs, OWBO staff will coordinate with SBA district offices to provide periodic programmatic site visits on behalf of OWBO. Prior to conducting such visits, SBA district office personnel will coordinate with and provide written notice to the WBC Program Director. The SBA's district office personnel may inspect WBC records and client files to analyze and assess WBC activities, and, if necessary, make recommendations for improved service delivery to the OWBO Program Analyst. Periodic district office site visits do not supersede or replace OWBO site visits.

§ 131.520 Audits, examinations, and investigations.

(a) *General audits.* The SBA may conduct WBC audits.

(1) Audits of a recipient organization will be conducted pursuant to the Single Audit Act of 1984 (if applicable) and applicable Office of Management and Budget circulars.

(2) The SBA's Office of Inspector General (OIG) or its agents may inspect, audit, investigate, or otherwise review the WBC as the Inspector General deems appropriate.

(b) *Financial examinations.* The WBC will have periodic financial examinations conducted by either the SBA or an independent contracted firm. WBCs, in accordance with the program announcement and the cooperative agreement, must comply with all requirements set forth for such purposes.

(1) Applicant organizations proposing to enter the WBC program for the first time shall be subject to a post-award examination or sufficiency review conducted by or coordinated with the SBA or its designee. As part of the financial examination, the financial examiner will verify the adequacy of the accounting system, the suitability of proposed costs, and the nature and sources of proposed matching funds.

(2) Examinations by the SBA will not serve as a substitute for audits required of Federal recipients under the Single Audit Act of 1984, 31 U.S.C. Chapter 75 or applicable Office of Management and Budget guidelines (see 2 CFR part 200), nor will such internal reviews serve as a substitute for audits to be conducted by the SBA's Office of the Inspector General under authority of the Inspector General Act of 1978, as amended.

(c) *Investigations.* The SBA may conduct investigations to determine whether any person or entity has engaged in acts or practices constituting a violation of the Small Business Act, 15 U.S.C. 656; any rule, order, or regulation; or any other applicable Federal law.

§ 131.600 Cooperative agreement and contracts.

(a) *General.* A recipient organization will incorporate into its WBC the applicable provisions of the cooperative agreement.

(b) *Goals and milestones.* (1) OWBO will work in conjunction with WBC participants to establish program goals for the cooperative agreement annually. Agency loan goals may not be negotiated or incorporated into the cooperative agreement without the prior written approval of the AA/OWBO.

(2) Failing to meet the goals and milestones of the cooperative agreement may result in suspension, termination, or non-renewal in accordance with § 131.830.

(c) *Procurement policies and procedures.* (1) The WBC may contract out for certain functions as permitted by the terms and conditions of the cooperative agreement but may not expend more than 49 percent of the total project funds on contractors and consultants.

(2) The SBA may direct or otherwise approve any obligations or expenditures by recipient organizations, including those related to vendors or contractors, as deemed appropriate by the Agency.

§ 131.610 Other Federal grants.

(a) *Grants from other agencies.* A recipient organization may enter into a contract or grant with another Federal department or agency to provide specific assistance to small business concerns in accordance with the following conditions:

(1) Any additional contract or grant funds obtained from a Federal source may not be used as matching funds for the WBC project, with the exception of Community Development Block Grant (CDBG) funds.

(2) Federal funds from the SBA and match expenditures reported to the SBA under the cooperative agreement may not be used or reported as match for another Federal program.

(3) The SBA does not impose any requirements for additional matching funds for those recipient organizations managing other Federal contracts.

(4) The WBC must report these other Federal funds and any associated matching funds separately to the SBA.

(b) *RISE After Disaster grants.* In accordance with 15 U.S.C. 636(b)(12), the SBA may provide financial assistance to a WBC, SBDC (under 13 CFR part 130), SCORE, or any proposed consortium of such individuals or entities to spur disaster recovery and growth of small business concerns located in an area for which the President has declared a major disaster.

(1) The Administrator, in cooperation with the recipients of financial assistance under this paragraph, shall establish metrics and goals for performance of grants, contracts, and cooperative agreements under this

paragraph, which shall include recovery of sales, recovery of employment, reestablishment of business premises, and establishment of new small business concerns.

(2) Matching funds are not required for any grant, contract, or cooperative agreement under this paragraph (see section 7(b) of the Small Business Act 15 U.S.C. 636 (b)).

§ 131.620 Revisions and amendments to cooperative agreements.

During a project period, the WBC may request, in writing, one or more revisions to the cooperative agreement. The request must be submitted by the recipient organization's authorized official. Revisions will normally relate to changes in scope, work, or funding during the specified budget period. No proposed revision will be implemented without the prior approval from the OWBO Program Analyst. Revisions that require an amendment include the prior approval items set forth in 2 CFR 200.308 and 200.407.

§ 131.630 Suspension, termination, and non-renewal.

(a) *General.* After entering into a cooperative agreement with a recipient organization, the AA/OWBO may take, as appropriate, any of the following enforcement actions based upon one or more of the circumstances set forth in paragraph (b) of this section:

(1) *Suspension.* (i) The AA/OWBO may suspend a cooperative agreement with a recipient organization at any point. The decision to suspend a cooperative agreement with a recipient organization is effective immediately as of the date of the notice of suspension. The period of suspension will begin on the date of the notice of suspension and will last no longer than six months. At the end of the period of suspension, or at any point during that period, the AA/OWBO will either reinstate the cooperative agreement or commence an action for termination or non-renewal.

(ii) The notice of suspension will recommend that the recipient organization cease work on the WBC project immediately. The AA/OWBO is under no obligation to reimburse any expenses incurred by a recipient organization while its cooperative agreement is under suspension. Where the AA/OWBO decides to lift a suspension and reinstate a recipient organization's cooperative agreement, the Agency may, at its discretion, choose to make funds available to reimburse a recipient organization for some or all of the expenses it incurred in furtherance of project objectives during the period of suspension. However, there is no guarantee that the Agency will elect to accept such expenses and recipient organizations incurring expenses while under suspension do so at their own risk.

(2) *Termination.* (i) The AA/OWBO may terminate a cooperative agreement with a recipient organization at any point. A decision to terminate a cooperative agreement is effective immediately as of the date of the notice of termination. A recipient organization may not incur further obligations under the cooperative agreement after the date of termination unless it has been expressly authorized to do so in the notice of termination.

(ii) Funds remaining under the cooperative agreement may be made available by the AA/OWBO to satisfy financial obligations properly incurred by the recipient organization prior to the date of termination. Award funds will not be available for obligations incurred subsequent to the effective date of termination unless expressly authorized under the notice of termination. A recipient organization that has had its cooperative agreement terminated will have 90 days to submit final closeout documents as instructed by the SBA.

(3) *Non-renewal.* (i) The AA/OWBO may elect not to renew a cooperative agreement with a recipient organization at any point. In undertaking a non-renewal action, the SBA may either decline to accept or consider any application for renewal the organization submits, or the agency may decline to exercise any option years remaining under the cooperative agreement. A recipient organization that has had its cooperative agreement non-renewed may continue to conduct project activities and incur allowable expenses until the end of the current budget period.

(ii) Funds remaining under a non-renewed cooperative agreement may be utilized to satisfy financial obligations the recipient organization properly incurred prior to the end of the budget period. Award funds will not be available for obligations incurred subsequent to the end of the current budget period. A recipient organization that has had its cooperative agreement non-renewed will have until the end of the current budget period or 120 days, whichever is longer, to conclude its operations and submit closeout documents as instructed by the SBA.

(b) *Material non-compliance.* The AA/OWBO may suspend, terminate, or not renew a cooperative agreement, in whole or in part, with a recipient organization for material non-compliance (frequently referred to as for cause). Material non-compliance may include, but is not limited to, the following:

(1) Non-performance;

(2) Poor performance;

(3) Unwillingness or inability to implement changes to improve performance;

(4) Willful or material failure to comply with the terms and conditions of the cooperative agreement, including relevant Office of Management and Budget circulars;

(5) Conduct reflecting a lack of business integrity or honesty on the part of the recipient organization, the WBC Program Director, or other significant employee(s), which has not been properly addressed;

(6) A conflict of interest on the part of the recipient organization, the WBC Program Director, or other significant employees causing real or perceived detriment to a small business concern, a contractor, the WBC, or the SBA;

(7) Improper management or use of Federal funds;

(8) Failure of a WBC to consent to audits or examinations, or to maintain required documents or records;

(9) Failure to implement recommendations from the audits or examinations within 30 days of their receipt;

(10) Failure of the WBC Program Director to work at the WBC on a 100 percent full-time basis on the WBC project;

(11) Failure to promptly suspend or terminate the employment of a WBC Program Director, or other significant employee, upon receipt of knowledge or written information by the recipient organization and/or the SBA indicating that such individual has engaged in conduct, which may result or has resulted in a criminal conviction or civil judgment which would cause the public to question the WBC's integrity. In making the decision to suspend or terminate such an employee, the recipient organization must consider such factors as the magnitude and repetitiveness of the harm caused and the remoteness in time of the behavior underlying any conviction or judgment;

(12) Failure to maintain adequate client service facilities or service hours;

(13) Fraud, waste, abuse, mismanagement or criminal activity on the part of the recipient organization and/or its staff/employees; or

(14) Any other action that the AA/OWBO believes materially and adversely affects the operation or integrity of a WBC or the WBC program.

(c) *Procedures.* The same procedures will apply regardless of whether a cooperative agreement with a recipient

organization is being suspended, terminated, or non-renewed by the SBA.

(1) *Taking action.* When the AA/OWBO has reason to believe there is cause to suspend, terminate, or non-renew a cooperative agreement with a recipient organization (either based on its own knowledge or upon information provided to it by other parties), the AA/OWBO may undertake such an enforcement action by issuing a written notice of suspension, termination, or non-renewal to the recipient organization.

(2) *Notice requirements.* Each notice of suspension, termination, or non-renewal will set forth the specific facts and reasons for the AA/OWBO decision and will include reference to the appropriate legal authority. The notice will also advise the recipient organization that it has the right to request an administrative review of the decision to suspend, terminate, or non-renew its cooperative agreement in accordance with the procedures set forth in paragraph (d) of this section. The notice will be transmitted to the recipient organization on the same date it is issued by both U.S. Mail and facsimile or as an email attachment.

(3) *Relationship to government-wide suspension and debarment.* A decision by the AA/OWBO to suspend, terminate, or non-renew a WBC cooperative agreement does not constitute a nonprocurement suspension or debarment of a recipient organization under Executive Order 12549 and SBA's implementing regulations (2 CFR part 2700). However, a decision by the AA/OWBO to undertake a suspension, termination, or non-renewal enforcement action with regard to a particular WBC cooperative agreement does not preclude or preempt the Agency from also taking action to suspend or debar a recipient organization for purposes of all Federal procurement and/or nonprocurement opportunities.

(d) *Administrative review.* Any recipient organization that has had its cooperative agreement suspended, terminated, or non-renewed has the right to request an administrative review of the AA/OWBO's enforcement action. Administrative review of WBC enforcement actions will be conducted by the AA/OED.

(1) *Format.* There is no prescribed format for a request for administrative review of an SBA enforcement action. While a recipient organization has the right to retain legal counsel to represent its interests in connection with an administrative review, it is under no obligation to do so. Formal briefs and other technical forms of pleading are not required. However, a request for administrative review of an SBA enforcement action must be in writing, should be concise and logically arranged, and must at a minimum include the following information:

(i) Name and address of the recipient organization;

(ii) Identification of the relevant SBA office/program (*i.e.,* OWBO/WBC Program);

(iii) Cooperative agreement number;

(iv) Copy of the notice of suspension, termination, or non-renewal;

(v) Statement regarding why the recipient organization believes the SBA's actions were arbitrary, capricious, an abuse of discretion, and/or otherwise not in accordance with the law;

(vi) Identification of the specific relief being sought (*e.g.,* lifting of the suspension);

(vii) Statement as to whether the recipient organization is requesting a hearing and, if so, the reasons why it believes a hearing is necessary; and

(viii) Copies of any documents or other evidence the recipient organization believes support its position.

(2) *Service.* Any recipient organization requesting administrative review of an SBA enforcement action must submit copies of its request (including any attachments) to all of the following parties:

(i) Associate Administrator for the Office of Entrepreneurial Development, U.S. Small Business Administration;

(ii) Assistant Administrator for the Office of Women's Business Ownership U.S. Small Business Administration;

(iii) Associate General Counsel for Procurement Law, U.S. Small Business Administration.

(e) *Timeliness.* (i) In order to be considered timely, the AA/OED must receive a recipient organization's request for administrative review within 30 days of the date of the notice of suspension, termination, or non-renewal. Any request for administrative review received by the AA/OED more than 30 days after the date of the notice of suspension, termination, or non-renewal will be considered untimely and will automatically be rejected without being considered.

(ii) In addition, if the AA/OED does not receive a request for administrative review within the 30-day deadline, then the decision by the AA/OWBO to suspend, terminate, or non-renew a recipient organization's cooperative agreement will automatically become the final Agency decision on the matter.

(f) *Standard of review.* In order to have the suspension, termination, or non-renewal of a cooperative agreement reversed on administrative review, a recipient organization must successfully demonstrate that the SBA enforcement action was arbitrary, capricious, an abuse of discretion, and/or otherwise not in accordance with the law.

(g) *Conduct of the proceeding.* (1) Each party must serve the opposing party with copies of all requests, arguments, evidence, and any other filings it submits pursuant to the administrative review. Within 30 days of the AA/OED receiving a request for administrative review, the AA/OED must also receive the SBA's arguments and evidence in defense of its decision to suspend, terminate, or non-renew a recipient organization's cooperative agreement. If the SBA fails to provide its arguments and evidence in a timely manner, the administrative review will be conducted solely on the basis of the information provided by the recipient organization.

(2) After receiving the SBA's response to the request for administrative review or the passage of the 30-day deadline for filing such a response, the AA/OED will take one or more of the following actions, as applicable:

(i) Notify the parties whether she/he has decided to grant a request for a hearing;

(ii) Direct the parties to submit further arguments and/or evidence on any issues which she/he believes require clarification; and/or

(iii) Notify the parties that she/he has declared the record to be closed and therefore she/he will refuse to admit any further evidence or argument.

(3) The AA/OED will only grant a request for a hearing if she/he concludes that there is a genuine dispute as to a material fact that cannot be resolved except by the taking of testimony and the confrontation of witnesses. If the AA/OED grants a request for a hearing, she/he will set the time and place for the hearing, determine whether the hearing will be conducted in person or via telephone, and identify which witnesses will be permitted to give testimony.

(4) Within 10 calendar days of declaring the record to be closed, the AA/OED will provide all parties with a copy of her/his written decision on the merits of the administrative review.

(h) *Evidence.* The recipient organization and the SBA each have the right to submit whatever evidence they believe is relevant to the matter in dispute. No form of discovery will be permitted unless a party has made a substantial showing, based upon credible evidence and not mere allegation that the other party has acted

in bad faith or engaged in improper behavior.

(i) *Decision.* (1) The decision of the AA/OED will be effective immediately as of the date it is issued. The decision of the AA/OED will represent the final Agency decision on all matters in dispute on administrative review. No further relief may be sought from or granted by the Agency. If the AA/OED determines that the SBA's decision to suspend, terminate, or non-renew a cooperative agreement was arbitrary, capricious, an abuse of discretion, and/or otherwise not in accordance with the law, she/he will reverse the Agency's enforcement action and direct the SBA to reinstate the recipient organization's cooperative agreement.

(2) Where an enforcement action has been reversed on administrative review, the SBA will have no more than 10 calendar days to implement the AA/OED's decision. However, to the extent permitted under the applicable Office of Management and Budget circulars, the SBA reserves the right to impose such special conditions in the recipient organization's cooperative agreement as it deems necessary to protect the government's interests.

§ 131.640 Dispute procedures.

(a) *Financial and Programmatic disputes.* (1) A recipient organization wishing to resolve a dispute regarding a financial or programmatic matter other than suspension, termination, or non-renewal of its award must submit a written appeal petition describing the subject of the dispute, along with any relevant documentation, to the Chairman of the grant appeals committee (the Committee).

(2) The appeal petition must be received by the Committee within 30 calendar days of the date of SBA's decision. A copy of the appeal petition must also be provided to the AA/OWBO.

(3) There is no prescribed format for the submission of an appeal petition. Formal briefs and other technical forms of pleading are not required, nor is the grantee required to obtain civil representation. However, the appeal petition must be in writing and must be concise, factual, and logically arranged. In addition, the appeal petition must contain the following:

(i) Name and address of organization;

(ii) Name and address of the appropriate local SBA district office;

(iii) Identification of the appropriate SBA program office and the award number;

(iv) A statement of the material which are substantially in dispute;

(v) Copies of any documents or other evidence supporting the appeal;

(vi) A request for the specific relief desired on appeal: and

(vii) A statement as to whether an oral hearing is being requested and, if so, the reason for the hearing.

(4) The Committee will first rule on a request for an oral hearing before proceeding to consider the merits of an appeal petition. Within 60 calendar days of receiving the appeal petition, the Committee will present its decision in writing to the recipient organization and the AA/OWBO. The Committee's ruling will represent the final Agency decision on the subject of the dispute and will not be further appealable within SBA.

(5) Requests for an appeal before the Committee will not be granted unless the Agency determines there are substantial material facts in dispute.

(6) The Committee may request additional information or documentation from the recipient organization at any stage in the proceedings. The recipient organization's response to the Committee's request for additional information or documentation must be submitted, in writing, to the Committee within 15 calendar days of receipt of the request. In the event that the recipient organization fails to follow the procedures specified in paragraph (a)(3) of this section, the Committee may dismiss the appeal by a written order.

(7) If a request for an appeal is granted, the Committee will provide the recipient organization with written instructions and will afford the parties an opportunity to present their positions to the Committee in writing.

(8) The chairperson of the Committee, with advice from the SBA's Office of General Counsel, will issue a final written decision within 30 calendar days of receipt of all information or inform the recipient organization that additional time to issue a decision is necessary. A copy of the decision will be transmitted to the recipient organization, with copies to the AA/OWBO.

(9) At any time within 120 days of the end of the budget period, the recipient organization may submit a written request to use an expedited dispute appeal process. The Committee, by an affirmative vote of a majority of its total membership, may expedite the appeals process to attain final resolution of a dispute before the issuance date of a new cooperative agreement.

(b) [Reserved]

§ 131.650 Closeout procedures.

(a) *General.* Closeout procedures are used to ensure that the WBC program funds and property acquired or developed under the WBC cooperative agreement are fully reconciled and transferred seamlessly between the recipient organization and other Federal programs. The responsibility of conducting closeout procedures is vested with the recipient organization whose cooperative agreement is being relinquished, terminated, non-renewed, or suspended.

(b) *Responsibilities*—(1) *Recipient organizations.* When a WBC cooperative agreement is not being renewed or a WBC is terminated, regardless of cause, the recipient organization will address the following in its closeout process and perform the necessary inventories and reconciliations prior to submitting the final annual financial report.

(i) An inventory of WBC property must be compiled, evaluated, and all property and the aggregate of usable supplies and materials accounted for in this inventory.

(ii) Program income balances will be reconciled and unused WBC program income which is not used as match or cannot otherwise be used to offset legitimate expenditures of the WBC must be returned to the SBA.

(iii) Client records, paper and electronic, will be compiled to facilitate an SBA program closeout review.

(iv) Financial records will be compiled to facilitate a closeout of the SBA financial examination.

(2) *SBA.* Upon receipt of the final annual financial report from a non-renewing or terminated recipient organization, the AA/OWBO will issue disposition instructions to the former recipient organization.

(c) *Final disposition.* (1) The final financial status report from the recipient organization must include the information identified in the inventory process and identify any WBC program income collected for services provided.

(2) The AA/OWBO will issue written disposition instructions to the recipient organization providing the following:

(i) The name and address of the entity or agency to which property and program income must be transferred;

(ii) The date by which the transfer must be completed;

(iii) Actions to be taken regarding property and WBC program income;

(iv) Actions to be taken regarding WBC program records such as client and training files; and

(v) Authorization to incur costs for accomplishing the transfer. Such costs may, when authorized, be applied to

residual WBC program income or Federal or matching funds.

Christopher M. Pilkerton,
Acting Administrator.

[FR Doc. 2019–24239 Filed 11–22–19; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0323; Product Identifier 2019–NM–026–AD; Amendment 39–19785; AD 2019–22–06]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–800 series airplanes. This AD was prompted by reports of inadequate clearance between a certain fuel quantity indicating system (FQIS) tank unit and a certain reinforcement angle added as a part of a certain split winglet modification. This AD requires a detailed inspection to measure the clearance between the FQIS tank unit and a certain reinforcement angle installed as a part of the split winglet modification, and repair if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 30, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publications listed in this AD as of December 30, 2019.

ADDRESSES: For service information identified in this final rule, contact Aviation Partners Boeing, 2811 S 102nd Street, Suite 200, Seattle, WA 98168; telephone 206–830–7699; internet *https://www.aviationpartnersboeing.com*. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0323.

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–2019–0323; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Christopher Baker, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3552; email: *christopher.r.baker@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737–800 series airplanes. The NPRM published in the **Federal Register** on May 14, 2019 (84 FR 21279). The NPRM was prompted by reports of inadequate clearance between a FQIS tank unit at rib 21 and the stringer U–14 reinforcement angle added as a part of a split winglet modification per supplemental type certificate (STC) ST00830SE. The NPRM proposed to require a detailed inspection to measure the clearance between the FQIS tank unit and a certain reinforcement angle installed as a part of the split winglet modification, and repair if necessary.

The FAA is issuing this AD to address inadequate clearance between a certain FQIS tank unit and a certain reinforcement angle upon accomplishment of a certain split winglet modification, which could result in a potential source of ignition in a fuel tank and consequent fire, overpressure, and structural failure of the wing and possible loss of the airplane.

Comments

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

Support for the NPRM

United Airlines stated that it concurs with the proposed actions with no additional comments.

Request To Clarify Paragraph (c) Applicability of the Proposed AD

Boeing and Aviation Partners Boeing (APB) requested that we revise paragraph (c) of the proposed AD to include more detail as to which airplanes are affected. Boeing explained that STC ST00830SE has multiple configurations, and the proposed AD is applicable to only one configuration; airplanes in that configuration are identified in Aviation Partners Boeing Service Bulletin AP737–57–020, dated April 5, 2018. APB clarified further that STC ST00830SE includes both blended and split scimitar winglet configurations, but operators with aircraft modified to receive the blended winglets do not install the reinforcement that may interfere with the tank unit, and are not subject to the unsafe condition and requirements of the proposed AD.

The FAA agrees with the commenters' request for the reasons provided. The FAA has revised paragraph (c) of this AD to state that this AD applies to The Boeing Company Model 737–800 series airplanes, certificated in any category, line numbers 4919 through 5063 inclusive, modified with split winglets per STC ST00830SE and listed in Aviation Partners Boeing Service Bulletin AP737–57–020, dated April 5, 2018.

Request To Delete ODA Provisions

Boeing and APB requested that the FAA delete paragraph (h)(3) of the proposed AD because The Boeing Company Organization Designation Authorization (ODA) does not have AMOC authority for the referenced split scimitar winglet STC ST00830SE.

The FAA agrees with the request for the reasons provided. The FAA has removed paragraph (h)(3) of this AD.

Request To Clarify the Cost of Compliance Section of the NPRM

Boeing requested that the FAA revise the Cost of Compliance section of the NPRM to clarify that APB is responsible for warranty coverage. Boeing reasoned that the NPRM's language of ''according to the manufacturer . . .'' did not specify which manufacturer, Boeing or APB, would be responsible for warranty coverage.

The FAA agrees with the request for the reasons provided. The FAA has revised the Costs of Compliance section of this final rule to clarify that APB is the manufacturer responsible for warranty coverage.

Request To Revise the Summary of the NPRM

Boeing requested that the FAA revise the **SUMMARY** section of the NPRM to further clarify which airplanes are affected by the proposed AD. Boeing suggested that the FAA add ''modified with split winglets and listed in Aviation Partners Boeing Service Bulletin AP737–57–020, dated April 5, 2018,'' as a qualifier for the airplanes affected. In addition, Boeing requested that the FAA clarify what prompted the AD and the requirements of the AD by adding language that makes clear the reinforcement angle was added as a part of the referenced split scimitar winglet STC ST00830SE.

The FAA partially agrees with the request. The FAA disagrees with the request to add the qualifying statement of ''modified with split winglets and listed in Aviation Partners Boeing Service Bulletin AP737–57–020, dated April 5, 2018,'' because the **SUMMARY** section serves only as a brief introduction to the NPRM, and the level of detail requested by Boeing is reserved for the Regulatory Section of the proposed AD. As discussed earlier, the FAA has revised paragraph (c) of this AD to clarify that this AD applies only to The Boeing Company Model 737–800 series airplanes modified with split winglets per STC ST00830SE and listed in Aviation Partners Boeing Service Bulletin AP737–57–020, dated April 5, 2018. However, the FAA has revised the **SUMMARY** section of the final rule to clarify that a certain reinforcement angle was added as a part of a certain split winglet modification.

The FAA agrees with Boeing's request to clarify what prompted the NPRM and the requirements of the NPRM, for the reasons provided. The **SUMMARY** section of this AD has been revised accordingly.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Aviation Partners Boeing Service Bulletin AP737–57–020, dated April 5, 2018. This service information describes procedures for a detailed inspection to measure the clearance between the FQIS tank unit at rib 21 (WSTA 617) and stringer U–14 reinforcement angle on the left-hand wing, and repair including trimming the stringer U–14 reinforcement angle to obtain minimum clearance. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 16 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Detailed Inspection	7 work-hours × $85 per hour = $595	$0	$595	$9,520

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair	4 work-hours × $85 per hour = $340	$0	$340

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

This AD will not have federalism implications under Executive Order

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–22–06 The Boeing Company: Amendment 39–19785; Docket No. FAA–2019–0323; Product Identifier 2019–NM–026–AD.

(a) Effective Date

This AD is effective December 30, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–800 series airplanes, certificated in any category, line numbers 4919 through 5063 inclusive, modified with split winglets per supplemental type certificate (STC) ST00830SE and listed in Aviation Partners Boeing Service Bulletin AP737–57–020, dated April 5, 2018.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of inadequate clearance between a certain fuel quantity indicating system (FQIS) tank unit and a certain reinforcement angle added as a part of a certain split winglet modification. The FAA is issuing this AD to address this condition, which could result in a potential source of ignition in a fuel tank and consequent fire, overpressure, and structural failure of the wing and possible loss of the airplane.

(f) Compliance

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

(g) Inspection and Repair

Within 18 months after the effective date of this AD: Perform a detailed inspection to determine the clearance between the FQIS tank unit at rib 21 (WSTA 617) and stringer U–14 reinforcement angle in accordance with the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP737–57–020, dated April 5, 2018. If the measured clearance is less than 0.10 inch: Before further flight, perform the repair action in accordance with the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP737–57–020, dated April 5, 2018.

(h) Alternative Methods of Compliance (AMOCs)

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

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

(i) Related Information

For more information about this AD, contact Christopher Baker, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3552; email: *christopher.r.baker@faa.gov.*

(j) Material Incorporated by Reference

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

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

(i) Aviation Partners Boeing Service Bulletin AP737–57–020, dated April 5, 2018.

(ii) [Reserved]

(3) For service information identified in this AD, contact Aviation Partners Boeing, 2811 S 102nd Street, Suite 200, Seattle, WA 98168; telephone 206–830–7699; internet *https://www.aviationpartnersboeing.com.*

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

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

Issued in Des Moines, Washington, on November 7, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–25474 Filed 11–22–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0483; Product Identifier 2019–NM–053 AD; Amendment 39–19795; AD 2019–23–02]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A330–200 Freighter, A330–200, and A330–300 series airplanes. This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 30, 2019.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of December 30, 2019.

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For

information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0483.

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–2019–0483; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229.

SUPPLEMENTARY INFORMATION:

Discussion

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0059, dated March 20, 2019 (''EASA AD 2019–0059'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A330–200 Freighter, A330–200, and A330–300 series airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A330–200 Freighter, A330–200, and A330–300 series airplanes. The NPRM published in the **Federal Register** on June 24, 2019 (84 FR 29429). The NPRM was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations.

The FAA is issuing this AD to address fatigue cracking, accidental damage, and corrosion in principal structural elements; such fatigue cracking, accidental damage, and corrosion could result in reduced structural integrity of the airplane. See the MCAI for additional background information.

Comments

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

Support for the NPRM

Delta Air Lines (DAL) stated its support for the NPRM.

Request To Include Information for Reporting

DAL requested that the proposed AD include the address where inspection findings report should be sent and the time frame within which the report should be submitted. The commenter recommended that the proposed AD include a paragraph stating that all crack findings identified during the inspection tasks included in Airbus A330 Airworthiness Limitations Section (ALS) Part 2, Damage Tolerant Airworthiness Limitation Items (DT–ALI), Revision 03, dated October 15, 2018 (''Airbus A330 ALS Part 2, DT–ALI, Revision 03''), as supplemented by Airbus A330 ALS Part 2, DT–ALI, Variation 3.1, dated January 18, 2019, along with the corrective actions, be reported to Airbus via the Airbus Tech Request system within 30 days after the visit.

The commenter justified its request by explaining that paragraph 6. ''Reporting,'' of Section 1. of Airbus A330 ALS Part 2, DT–ALI, Revision 03, specifies reporting. The commenter explained that the philosophy behind the fatigue related inspections is that the areas being inspected are places where cracking might be found in the future, and if cracking is found in these areas the associated inspection task would be removed from Airbus A330 ALS Part 2, DT–ALI, Revision 03, and included in a service bulletin and an associated AD would be issued. The commenter concluded that the reporting in paragraph 6. ''Reporting,'' of Section 1. of Airbus A330 ALS Part 2, DT–ALI, Revision 03, is an important part of this process. Furthermore, the commenter stated that they could not locate information regarding where to submit reports and the timeframe for reporting.

The FAA would like to clarify the intent of the referenced damage-tolerant task in Airbus A330 ALS Part 2, DT–ALI, Revision 03, as supplemented by Airbus A330 ALS Part 2, DT–ALI, Variation 3.1, dated January 18, 2019. Unlike airplanes that follow a Supplemental Structural Inspection Program that requires reporting (those with an older certification basis that does not include damage tolerance criteria), the airplanes specified in paragraph (c) of this AD comply with 14 CFR 25.571 damage tolerance criteria. Section 25.571 requires applicants to evaluate all structures that could contribute to catastrophic failure of the airplane with respect to its susceptibility to fatigue cracking, corrosion, and accidental damage. Applicants must establish inspections or other procedures (also referred to as maintenance actions) as necessary to avoid catastrophic failure during the operational life of the airplane based on the results of these evaluations. It is intended that all maintenance actions required to address fatigue cracking, corrosion, and accidental damage are identified in the structural-maintenance program. All inspections and other procedures (*e.g.,* modification times, replacement times) that are necessary to prevent a catastrophic failure due to fatigue are included in the ALS of the Instructions for Continued Airworthiness (ICA), as required by 14 CFR 25.1529. Therefore, reporting is not required by this AD.

FAA Advisory Circular 25.571–1D provides guidance for compliance with the provisions of 14 CFR 25.571, pertaining to the requirements for damage-tolerance and fatigue evaluation of transport category aircraft structure, and may be referenced for further information.

While airplane manufacturers may benefit from receiving information from the outcome of the ALI inspections, the EASA did not make reporting a requirement in EASA AD 2019–0059. The FAA concurs with the EASA, and therefore, this AD does not include a reporting requirement. However, operators may report the findings, as an option, to Airbus as specified in paragraph 6., ''Reporting,'' of Section 1. of Airbus A330 ALS Part 2, DT–ALI, Revision 03, that indicates reports should be sent to *MPDtask.Reports@airbus.com.* This AD has not been changed in this regard.

Change to Certification Date in the Applicability

In paragraph (c) of the proposed AD, the FAA specified that certain airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before ''October 15, 2018'' are affected. However, since this AD requires revising the existing maintenance or inspection program to incorporate the information specified in Airbus A330 ALS Part 2, DT–ALI, Revision 03, as supplemented by Airbus A330 ALS Part 2, DT–ALI, Variation 3.1, dated January

18, 2019, the FAA changed the date in paragraph (c) of this AD to ''January 18, 2019.'' No U.S. operators are affected by this change.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

Airbus has issued A330 Airworthiness Limitations Section (ALS) Part 2, Damage Tolerant Airworthiness Limitation Items (DT–ALI), Revision 03, dated October 15, 2018, as supplemented by Airbus A330 ALS Part 2, DT–ALI, Variation 3.1, dated January 18, 2019. This service information describes mandatory maintenance tasks that operators must perform at specified intervals. This service information also describes airworthiness limitations for certification maintenance requirements applicable to the DT–ALI. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 107 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 workhours per operator, although the agency recognizes that this number may vary from operator to operator. In the past, the agency has estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the agency has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–23–02 Airbus SAS: Amendment 39–19795; Docket No. FAA–2019–0483; Product Identifier 2019–NM–053–AD.

(a) Effective Date

This AD is effective December 30, 2019.

(b) Affected ADs

This AD affects AD 2017–19–13, Amendment 39–19043 (82 FR 43837, September 20, 2017) (''AD 2017–19–13''); and AD 2018–24–04, Amendment 39–19508 (83 FR 60756, November 27, 2018) (''AD 2018–24–04'').

(c) Applicability

This AD applies to the Airbus SAS airplanes specified in paragraphs (c)(1) through (3) of this AD, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before January 18, 2019.

(1) Model A330–223F and –243F airplanes.

(2) Model A330–201, –202, –203, –223, and –243 airplanes.

(3) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address fatigue cracking, accidental damage, and corrosion in principal structural elements; such fatigue cracking, accidental damage, and corrosion could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 90 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Airbus A330 Airworthiness Limitations

Section (ALS) Part 2, Damage Tolerant Airworthiness Limitation Items (DT–ALI), Revision 03, dated October 15, 2018 (''Airbus A330 ALS Part 2, DT–ALI, Revision 03''), as supplemented by Airbus A330 ALS Part 2, DT–ALI, Variation 3.1, dated January 18, 2019. The initial compliance time for doing the tasks is at the time specified in Airbus A330 ALS Part 2, DT–ALI, Revision 03, including Airbus A330 ALS Part 2, DT–ALI, Variation 3.1, dated January 18, 2019; or within 90 days after the effective date of this AD; whichever occurs later. This AD does not require Section 4, ''Damage Tolerant-Airworthiness Limitations Items-Tasks Beyond MPPT,'' of Airbus A330 ALS Part 2, DT–ALI, Revision 03.

(h) No Alternative Actions or Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals, may be used unless the actions and intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(i) Terminating Action for AD 2017–19–13 and AD 2018–24–04

Accomplishing the actions required by this AD terminates all requirements of AD 2017–19–13 and AD 2018–24–04.

(j) 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 (k)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

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

(ii) The AMOC specified in letter AIR–676–19–120, dated March 5, 2019, approved previously for AD 2018–24–04, is approved as an AMOC for the corresponding provisions of this AD for Model A330–300 series airplanes modified from a passenger to freighter configuration under the provisions of FAA Supplemental Type Certificate ST04038NY.

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

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2019–0059, dated March 20, 2019, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0483.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229.

(l) Material Incorporated by Reference

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

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

(i) Airbus A330 Airworthiness Limitations Section (ALS) Part 2, Damage Tolerant Airworthiness Limitation Items (DT–ALI), Revision 03, dated October 15, 2018.

(ii) Airbus A330 Airworthiness Limitations Section (ALS) Part 2, Damage Tolerant Airworthiness Limitation Items (DT–ALI), Variation 3.1, dated January 18, 2019.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com*; internet *http://www.airbus.com.*

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

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

Issued in Des Moines, Washington, on November 7, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–25475 Filed 11–22–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0666; Product Identifier 2019–NM–086–AD; Amendment 39–19792; AD 2019–22–13]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes. This AD was prompted by reports of lavatory waste bin fire extinguishers found depleted. This AD requires a one-time inspection of the installation of the waste bins for interference (the inspection also includes a weight check of the waste bin fire extinguisher and an inspection of the discharge tubes for damage), modification of affected waste bins, and replacement of affected fire extinguishers, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD also requires replacement of the fire extinguisher if any damaged discharge tube is found or the weight of the waste bin fire extinguisher is too low. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 30, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 30, 2019.

ADDRESSES: For the material incorporated by reference (IBR) in this AD, 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 *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0666.

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–2019–0666; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0095, dated April 30, 2019 (''EASA AD 2019–0095'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes. The NPRM published in the **Federal Register** on August 30, 2019 (84 FR 45697). The NPRM was prompted by reports of lavatory waste bin fire extinguishers found depleted. The NPRM proposed to require a one-time inspection of the installation of the waste bins for interference (the inspection also includes a weight check of the waste bin fire extinguisher and an inspection of the discharge tubes for damage), modification of affected waste bins, and replacement of affected fire extinguishers. Then NPRM also proposed to require replacement of the fire extinguisher if any damaged discharge tube is found or the weight of the waste bin fire extinguisher is too low.

The FAA is issuing this AD to address insufficient clearance between the waste bin and the fire extinguisher discharge tubes, which could result in failure to discharge the extinguishing agent during a lavatory bin fire, and consequent damage to the airplane and injury to occupants. See the MCAI for additional background information.

Comments

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

Conclusion

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

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

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0095 describes procedures for a one-time inspection of the installation of each affected waste bin for interference between the waste bins and the fire extinguisher discharge tubes (the inspection for interference also includes a weight check of the waste bin fire extinguisher and a detailed inspection of the discharge tubes for damage), modification of affected waste bins, and replacement of affected fire extinguishers. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 4 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × $85 per hour = $85	$0	$85	$340

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	$1,100	$1,355

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–22–13 Fokker Services B.V.: Amendment 39–19792; Docket No. FAA–2019–0666; Product Identifier 2019–NM–086–AD.

(a) Effective Date

This AD is effective December 30, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes, certificated in any category, all serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by reports of lavatory waste bin fire extinguishers found depleted. An investigation revealed that damage to the discharge tubes may have occurred during installation or removal of the waste bin. Insufficient clearance between the waste bin and the fire extinguisher discharge tubes may have caused the discharge tubes to collide with the waste bin and discharge. The FAA is issuing this AD to address this condition, which could result in failure to discharge the extinguishing agent during a lavatory bin fire, and consequent damage to the airplane and injury to occupants.

(f) Compliance

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

(g) Requirements as Specified in EASA AD 2019–0095

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 2019–0095, dated April 30, 2019 (''EASA AD 2019–0095'').

(h) Exceptions to EASA AD 2019–0095

(1) Where EASA AD 2019–0095 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0095 does not apply to this AD.

(i) Additional Requirement: Corrective Action

If, during any inspection required by paragraph (1) of EASA AD 2019–0095 (which includes a weight check of the waste bin fire extinguisher and an inspection of the discharge tubes for damage), any damaged discharge tube is found or the weight of the waste bin fire extinguisher is too low: Before further flight, replace the fire extinguisher with a serviceable fire extinguisher.

(j) 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 (k) 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 Fokker Services B.V.'s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2019–0095, dated April 30, 2019.

(ii) [Reserved]

(3) For information about EASA AD 2019–0095, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this 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 *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0666.

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

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

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–25476 Filed 11–22–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0959; Product Identifier 2019–CE–051–AD; Amendment 39–19804; AD 2019–23–10]

RIN 2120–AA64

Airworthiness Directives; Textron Aviation Inc. (Type Certificate Previously Held by Beechcraft Corporation) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2019–21–08 for Textron Aviation Inc. (Textron) Models E33, E33A, E33C, F33, G33, 35–C33, 35–C33A, K35, M35, N35, P35, S35, V35, V35A, 36, and certain Models F33A, F33C, V35B, and A36 airplanes. AD 2019–21–08 required inspecting the right aileron flight control cable end fittings (terminal attachment fittings) and replacing any damaged cable assembly. This AD retains all of the actions of AD 2019–21–08 but removes Models K35, M35, N35, and P35 from the applicability. This AD was prompted by a comment the FAA received that AD 2019–21–08 should not apply to Models K35, M35, N35, and P35 airplanes. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 22, 2019.

The FAA must receive any comments on this AD by January 9, 2020.

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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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–2019–0959; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Alan Levanduski, Aerospace Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4161; fax: (316) 946–4107; email: *alan.levanduski@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued AD 2019–21–08, Amendment 39–19774 (84 FR 59926, November 7, 2019), (''AD 2019–21–08''), for Textron Aviation Inc. (Textron) Models E33, E33A, E33C, F33, G33, 35–C33, 35–C33A, K35, M35, N35, P35, S35, V35, V35A, 36, and certain Models F33A, F33C, V35B, and A36 airplanes. AD 2019–21–08 required inspecting the right aileron flight control cable end fittings (terminal attachment fittings) and replacing any damaged cable assembly. AD 2019–21–08 resulted from reports of cracked and fractured right aileron flight control cable end fittings. The FAA issued AD 2019–21–08 to prevent failure of the right aileron flight control cable assembly, un-commanded right roll of the airplane, and loss of roll control in the left direction, which may lead to loss of control of the airplane.

Actions Since AD 2019–21–08 Was Issued

Since the FAA issued AD 2019–21–08, the FAA received a comment that AD 2019–21–08 should not apply to Models K35, M35, N35, and P35 airplanes. Textron verified those airplane models have a different configuration with the heating duct in a different location. The FAA has determined to supersede AD 2019–21–08 with this AD that retains all of the required actions from AD 2019–21–08 but removes airplane Models K35, M35, N35, and P35 from the applicability.

FAA's Determination

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

AD Requirements

This AD requires inspecting the right aileron flight control cable end fittings that thread into the turnbuckle for corrosion, pitting, and cracks and replacing any damaged cable assembly.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because the quantity of recent reports of failure of the right aileron flight control cable end fittings necessitates that the corrective actions be accomplished within 30 days. Therefore, the FAA finds good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reasons stated above, the FAA finds that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and the FAA did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, the FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include the Docket Number FAA–2019–0959 and Product Identifier 2019–CE–051–AD at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

The FAA will post all comments it receives, 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 it receives about this final rule.

Costs of Compliance

The FAA estimates that this AD affects 3,161 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection of the right aileron cable end fittings.	5 work-hours × $85 per hour = $425	Not applicable	$425	$1,343,425

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of a forward aileron cable assembly	6 work-hours × $85 per hour = $510	$1,123	$1,633
Replacement of an aft aileron cable assembly	4 work-hours × $85 per hour = $340	785	1,125

Authority for This Rulemaking

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

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

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

Regulatory Flexibility Act

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2019–21–08, Amendment 39–19774 (84 FR 59926, November 7, 2019) and adding the following new AD:

2019–23–10 Textron Aviation Inc. (Type Certificate Previously Held by Beechcraft Corporation) Airplanes: Amendment 39–19804; Docket No. FAA–2019–0959; Product Identifier 2019–CE–051–AD.

(a) Effective Date

This AD is effective November 22, 2019.

(b) Affected ADs

This AD replaces AD 2019–21–08, Amendment 39–19774 (84 FR 59926, November 7, 2019) (''AD 2019–21–08'').

(c) Applicability

This AD applies to the following Textron Aviation Inc. (Type Certificate previously held by Beechcraft Corporation) airplanes, certificated in any category:

(1) Models E33, E33A, E33C, F33, G33, 35–C33, 35–C33A, S35, V35, V35A, and 36, all serial numbers (S/Ns);

(2) Model F33A, S/Ns CE–290 through CE–680;

(3) Model F33C, S/Ns CJ–26 through CJ–128;

(4) Model V35B, S/Ns D–9069 through D–9961; and

(5) Model A36, S/Ns E–185 through E–925.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 2710, Aileron Control System.

(e) Unsafe Condition

This AD was prompted by reports of cracked and fractured right aileron flight control cable end fittings (terminal attachment fittings). The FAA is issuing this AD to detect and address damaged right aileron flight control cable end fittings. The unsafe condition, if not addressed, could result in failure of the right aileron flight control cable assembly, un-commanded right roll of the airplane, and loss of roll control in the left direction, which may lead to loss of control of the airplane.

(f) Compliance

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

(g) Inspection

Within 30 days after November 22, 2019 (the effective date retained from AD 2019–21–08) inspect the forward and aft right aileron flight control cable end fittings that thread into the turnbuckle. To gain access to the end fittings, you must remove the front seats and floorboards and, if installed, the rear seats and under-seat closeout. The end fittings are located underneath the heating duct, just forward of the aft carry through spar.

Note to paragraph (g) of this AD: Adjusting the turnbuckle relative to the end fittings will affect cable tension.

(1) Remove any safety wire from the end fittings and turnbuckle, if installed. Remove any sleeving and tape on the shank of the cable end fittings without gouging or scratching the fitting surface.

(2) Using a 10X magnification, a mirror, and a light source, inspect all exposed surfaces of both control cable end fittings for cracks, pitting, and corrosion.

(h) Follow-On Actions

Before further flight after the inspection required by paragraph (g) of this AD, do one of the following actions, as applicable:

(1) If there are no cracks, no pitting, and no corrosion, check cable tension and make any necessary adjustments, and replace safety wire; or

(2) If there is a crack or any pitting or corrosion, replace any damaged cable assembly.

(i) Credit for Previous Actions

(1) If you performed the actions required by paragraphs (g) and (h) of this AD before November 22, 2019 (the effective date retained from 2019–21–08) using one of the following documents, you met the requirements of this AD:

(i) American Bonanza Society (ABS) Air Safety Foundation Beechcraft Control Cable Turn Buckle Inspection Recommendation, dated February 8, 2019;

(ii) ABS Air Safety Foundation Recommended Beechcraft Control Cable Turnbuckle Inspection, Update 1, dated February 20, 2019; or

(iii) ABS Air Safety Foundation Recommended Beechcraft Control Cable Turnbuckle Inspection, Update 2, dated August 8, 2019.

(2) The ABS Air Safety Foundations recommended inspection documents are available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0853. You may also obtain copies of these documents by contacting the ABS at American Bonanza Society, 3595 N. Webb Road, Suite 200, Wichita, KS 67226; email: *info@bonanza.org;* telephone: (316) 945–1700; fax: (316) 945–1710; or internet: *https://www.bonanza.org/.*

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

For more information about this AD, contact Alan Levanduski, Aerospace Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4161; fax: (316) 946–4107; email: *alan.levanduski@faa.gov.*

Issued on November 20, 2019.

William Schinstock,

Aircraft Certification Service. Acting Manager, Small Airplane Standards Branch, AIR–690.

[FR Doc. 2019–25568 Filed 11–20–19; 4:15 pm]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB 119]

Staff Accounting Bulletin No. 119

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: This staff accounting bulletin updates portions of the interpretive guidance included in the Staff Accounting Bulletin Series in order to align the staff's guidance with Financial Accounting Standards Board (''FASB'') Accounting Standards Codification (''ASC'') Topic 326, *Financial Instruments—Credit Losses* (''Topic 326'').

DATES: *Effective:* November 25, 2019.

FOR FURTHER INFORMATION CONTACT: Rachel Mincin, Associate Chief Accountant, Office of the Chief Accountant at (202) 551–5300, or Stephanie Sullivan, Associate Chief Accountant, Division of Corporation Finance at (202) 551–3400, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: In 2016, the FASB adopted ASC Topic 326 through its issuance of Accounting Standards Update No. 2016–13, *Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments.*[1] Upon its effective date, this standard will replace the existing incurred loss model for determining the allowance for loan losses with an expected credit loss model. The staff is publishing this staff accounting bulletin to update existing staff guidance[2] with respect to methodologies and supporting documentation for measuring credit losses. This updated guidance continues to focus on the documentation the staff would normally expect registrants engaged in lending transactions to prepare and maintain to support estimates of current expected credit losses for loan transactions. This update is applicable upon a registrant's adoption of Topic 326.

On November 15, 2019, the FASB delayed the effective date of the standard for certain small public companies and other private companies.[3] As amended, the effective date of ASC Topic 326 was delayed until fiscal years beginning after December 15, 2022 for SEC filers that are eligible to be smaller reporting companies under the SEC's definition, as well as private companies and not-for-profit entities. Nothing in this staff accounting bulletin should be read to accelerate or delay the effective dates of the standard as modified by the FASB.

The statements in SABs are not rules or interpretations of the Commission, nor are they published as bearing the Commission's official approval. They represent staff interpretations and practices followed by the staff in the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the federal securities laws.

List of Subjects in 17 CFR Part 211

Accounting, Reporting and recordkeeping requirements, Securities.

[1] ASC Topic 326 was subsequently amended through the issuances of Accounting Standards Update (''ASU'') No. 2018–19, *Codification Improvements to Topic 326, Financial Instruments—Credit Losses,* ASU No. 2019–04, *Codification Improvements to Topic 326, Financial Instruments—Credit Losses, Topic 815, Derivatives and Hedging, and Topic 825, Financial Instruments,* ASU No. 2019–05, *Financial Instruments—Credit Losses, Topic 326: Targeted Transition Relief,* and ASU No. 2019–10, *Financial Instruments—Credit Losses (Topic 326), Derivatives and Hedging (Topic 815), and Leases (Topic 842): Effective Dates.*

[2] *See* Codification of SABs Topic 6, Section L: *Financial Reporting Release No. 28—Accounting for Loan Losses by Registrants Engaged in Lending Activities,* which codified SAB No. 102—Selected Loan Loss Allowance Methodology and Documentation Issues, 66 FR 36457 (July 12, 2001).

[3] *See* ASU No. 2019–10, *Financial Instruments—Credit Losses (Topic 326), Derivatives and Hedging (Topic 815), and Leases (Topic 842): Effective Dates*

Dated: November 19, 2019.

Vanessa A. Countryman,

Secretary.

Accordingly, part 211 of title 17 of the Code of Federal Regulations is amended as follows:

PART 211—INTERPRETATIONS RELATING TO FINANCIAL REPORTING MATTERS

■ 1. The authority citation for 17 CFR part 211 continues as follows:

Authority: 15 U.S.C. 77g, 15 U.S.C. 77s(a), 15 U.S.C. 77aa(25) and (26), 15 U.S.C. 78c(b), 17 CFR 78l(b) and 13(b), 17 CFR 78m(b) and 15 U.S.C. 80a–8, 30(e) 15 U.S.C. 80a–29(e), 15 U.S.C. 80a–30, and 15 U.S.C. 80a–37(a).

■ 2. Amend the table in subpart B by adding an entry for Staff Accounting Bulletin No. 119 at the end of the table to read as follows:

Subpart B—Staff Accounting Bulletins

Subject	Release No.	Date	FR vol. and page
* * * *	*	*	* *
Publication of Staff Accounting Bulletin No. 119	SAB119	11/25/2019	[INSERT **FEDERAL REGISTER** CITATION].

Note: The text of Staff Accounting Bulletin No. 119 will not appear in the Code of Federal Regulations.

Staff Accounting Bulletin No. 119

The staff hereby adds Section M to Topic 6 of the Staff Accounting Bulletin Series. Accordingly, the staff hereby amends the Staff Accounting Bulletin Series as follows:

* * * * *

Topic 6: Interpretations of Accounting Series Releases and Financial Reporting Releases

* * * * *

M. Financial Reporting Release No. 28—Accounting for Loan Losses by Registrants Engaged in Lending Activities Subject to FASB ASC Topic 326

1. Measuring Current Expected Credit Losses

General: This staff interpretation applies to all registrants that are creditors in loan transactions that, individually or in the aggregate, have a material effect on the registrant's financial condition.[4]

FASB ASC Subtopic 326–20 addresses the measurement of current expected credit losses for financial assets measured at amortized cost basis, net investments in leases recognized by lessors, reinsurance recoverables, and certain off-balance-sheet credit exposures.[5]

At each reporting date, an entity shall record an allowance for credit losses on financial assets measured at amortized cost basis and net investments in leases recognized by lessors and shall record a liability for credit losses on certain off-balance-sheet exposures not accounted for as insurance or derivatives, including loan commitments, standby letters of credit, and financial guarantees.[6]

For financial asset(s), the allowance for credit losses is a valuation account that is deducted from, or added to, the amortized cost basis of the financial asset(s) to present the net amount expected to be collected on the financial asset(s).[7]

The allowance for credit losses is an estimate of current expected credit losses considering available information relevant to assessing collectibility of cash flows over the contractual term of the financial asset(s).[8]

Information relevant to establishing an estimate of current expected credit losses includes historical credit loss experience on financial assets with similar risk characteristics, current conditions, and reasonable and supportable forecasts that affect the collectability of the remaining cash flows over the contractual term of the financial assets. An entity shall report in net income (as a credit loss expense) the amount necessary to adjust the allowance for credit losses and liabilities for credit losses on off-balance-sheet credit exposures for management's current estimate of expected credit losses.[9]

This staff guidance is applicable upon a registrant's adoption of FASB ASC Topic 326.[10] Upon a registrant's adoption of FASB ASC Topic 326, the staff guidance in SAB Topic 6, Section L: *Financial Reporting Release No. 28—Accounting for Loan Losses by Registrants Engaged in Lending Activities*[11] will no longer be applicable.

On November 15, 2019, the FASB delayed the effective date of FASB ASC Topic 326 for certain small public companies and other private companies. As amended, the effective date of ASC Topic 326 was delayed until fiscal years beginning after December 15, 2022 for SEC filers that are eligible to be smaller reporting companies under the SEC's definition, as well as private companies and not-for-profit entities. Nothing in this staff interpretation should be read to accelerate or delay the effective dates of the standard as modified by the FASB.

2. Development, Governance, and Documentation of a Systematic Methodology

Facts: Registrant A is developing (or subsequently reviewing) its allowance for credit losses methodology for its loan portfolio.

Question 1: What are some of the factors or elements that the staff normally would expect Registrant A to consider when developing (or subsequently performing an assessment of) its methodology for determining its allowance for credit losses under GAAP?

Interpretive Response: The staff normally would expect a registrant to have a systematic methodology to address the development, governance, and documentation to determine its provision and allowance for credit losses.

It is critical that allowance for credit losses methodologies incorporate management's current judgments about

[4] This staff interpretation relates to Financial Reporting Release No. 28—Accounting for Loan Losses by Registrants Engaged in Lending Activities, Release No. 33–6679 (Dec. 1, 1986), (hereinafter ''FRR 28'').

[5] *See* ASC paragraphs 326–20–15–2 and 326–20–15–3.

[6] *Ibid.*

[7] *See* ASC paragraph 326–20–30–1.

[8] As indicated in ASC paragraph 326–20–30–11, the liability for expected credit losses for off-balance-sheet credit exposures shall be based on the contractual period in which the entity is exposed to credit risk via a present obligation to extend credit, unless the obligation is unconditionally cancellable by the issuer.

[9] *See* ASC paragraphs 326–20–30–1, 326–20–30–6, 326–20–30–7 and 326–20–30–11.

[10] *See* ASC paragraphs 326–10–65–1, 326–10–65–2, and 326–10–65–3.

[11] Originally added to the Codification of SABs in Topic 6, Section L, by SAB No. 102—*Selected Loan Loss Allowance Methodology and Documentation Issues,* 66 FR 36457 (July 12, 2001).

the credit losses expected from the existing loan portfolio, including reasonable and supportable forecasts about changes in credit quality of these portfolios, on a disciplined and consistently-applied basis.

A registrant's allowance for credit losses methodology is influenced by entity-specific factors, such as an entity's size, organizational structure, access to information, business environment and strategy, management's risk assessment, complexity of the loan portfolio, loan administration procedures, and management information systems. Management is responsible for the estimate of expected credit losses, and therefore also responsible for determining whether any allowance methodologies developed by third parties are consistent with GAAP.

While different registrants may use different methods,[12] there are certain common elements that the staff would expect in any methodology:

- Identify relevant risk characteristics and pool loans on the basis of similar risk characteristics; [13]
- Consider available information relevant to assessing the collectibility of cash flows; [14]
- Consider expected credit losses over the contractual term [15] of all existing loans (whether on an individual or group basis), and measure expected credit losses on loans on a collective (pool) basis when similar risk characteristics exist; [16]
- Require that analyses, estimates, reviews, and other allowance for credit losses methodology functions be performed by competent and well-trained personnel;
- Be based on reliable and relevant data and an analysis of current conditions and reasonable and supportable forecasts;
- Include a systematic and logical method to consolidate the loss estimates that allows for the allowance for credit losses balance to be recorded in accordance with GAAP.

The staff believes an entity's management should review, on a periodic basis, whether its methodology for determining its allowance for credit losses is appropriate. Additionally, for registrants that have audit committees, the staff believes that oversight of the financial reporting and auditing of the allowance for credit losses by the audit committee can strengthen the registrant's process for determining its allowance for credit losses.

A systematic methodology that is properly designed and implemented should result in a registrant's best estimate of its allowance for credit losses.[17] Accordingly, the staff normally would expect registrants to adjust their allowance for credit losses balance, either upward or downward, in each period for differences between the results of the systematic methodology and the unadjusted allowance for credit losses balance in the general ledger.[18]

Question 2: In the staff's view, what aspects of a registrant's allowance for credit losses internal accounting controls would need to be appropriately addressed in its written policies and procedures?

Interpretive Response: Registrants may utilize a wide range of policies, procedures, and control systems in their allowance for credit losses processes, and these policies, procedures, and systems are tailored to the size and complexity of the registrant and its loan portfolio.

However, the staff believes that, in order for a registrant's allowance for credit losses methodology to be effective, the registrant's written policies and procedures for the systems and controls that maintain an appropriate allowance for credit losses would likely address the following:

- The roles and responsibilities of the registrant's departments and personnel (including the lending function, credit review, financial reporting, internal audit, senior management, audit committee, board of directors, and others, as applicable) who determine or review, as applicable, the allowance for credit losses to be reported in the financial statements;
- The registrant's selected methods and policies for developing the allowance for credit losses and determining significant judgments;
- The description of the registrant's systematic methodology, which should be consistent with the registrant's accounting policies for determining its allowance for credit losses (see Question 4 below for further discussion); and
- How the system of internal controls related to the allowance for credit losses process provides reasonable assurance that the allowance for credit losses is in accordance with GAAP.

The staff normally would expect internal accounting controls [19] for the allowance for credit losses estimation process to:

- Include measures to provide reasonable assurance regarding the reliability and integrity of information and compliance with laws, regulations, and internal policies and procedures; [20] and
- Operate at a level of precision sufficient to provide reasonable assurance that the registrant's financial statements are prepared in accordance with GAAP.

Question 3: Assume the same facts as in Question 1. What would the staff normally expect Registrant A to include in its documentation of its allowance for credit losses methodology?

Interpretive Response: In FRR 28, the Commission provided guidance for documentation of loan loss provisions and allowances for registrants engaged in lending activities. The staff believes that appropriate written supporting documentation for the provision and allowance for credit losses facilitates review of the allowance for credit losses process and reported amounts, builds discipline and consistency into the allowance for credit losses methodology, and helps to evaluate whether relevant factors are appropriately considered in the allowance analysis.

The staff, therefore, normally would expect a registrant to document the relationship between its detailed analysis of the characteristics and credit quality of the portfolio and the amount of the allowance for credit losses reported in each period.[21]

The staff normally would expect registrants to maintain written supporting documentation for the following decisions and processes:

- Policies and procedures over the systems and controls that maintain an appropriate allowance for credit losses;

[12] ASC paragraph 326–20–30–3 states that ''[t]he allowance for credit losses may be determined using various methods. For example, an entity may use discounted cash flow methods, loss-rate methods, roll-rate methods, probability-of-default methods, or methods that utilize an aging schedule.''

[13] *See* ASC paragraph 326–20–55–5 for a list of risk characteristics that may be applicable.

[14] *See* ASC paragraph 326–20–30–7.

[15] *See* ASC paragraph 326–20–30–6.

[16] *See* ASC paragraph 326–20–30–2

[17] ASU 2016–13, BC63 states that ''the Board decided that an entity should determine at the reporting date an estimate of credit loss that best reflects its expectations (or its best estimate of expected credit loss).''

[18] *See* ASC paragraph 326–20–35–1 and 326–20–35–3. Registrants should also refer to the guidance on materiality in SAB Topic 1.M.

[19] Public companies are required to comply with the books and records and internal controls provisions of the Exchange Act. See Sections 13(b)(2)–(7) of the Exchange Act.

[20] Section 13(b)(2)–(7) of the Exchange Act.

[21] FRR 28, Section II states that ''[t]he specific rationale upon which the [loan loss allowance and provision] amount actually reported in each individual period is based—*i.e.,* the bridge between the findings of the detailed review [of the loan portfolio] and the amount actually reported in each period—would be documented to help ensure the adequacy of the reported amount, to improve auditability, and to serve as a benchmark for exercise of prudent judgment in future periods.''

• Allowance for credit losses methodology and key judgments, including the data used, assessment of risk, and identification of significant assumptions in the allowance estimation process;

• Summary or consolidation of the allowance for credit losses balance;

• Validation of the allowance for credit losses methodology; and

• Periodic adjustments to the allowance for credit losses.

Question 4: What elements of a registrant's allowance for credit losses methodology would the staff normally expect to be described in the registrant's written policies and procedures?

Interpretive Response: The staff normally would expect a registrant's written policies and procedures to describe the primary elements of its allowance for credit losses methodology. The staff normally would expect that, in order for a registrant's allowance for credit losses methodology to be effective, the registrant's written policies and procedures would describe all primary elements needed to support a disciplined and consistently-applied methodology, which may include, but is not limited to: [22]

• How portfolio segments are determined (*e.g.,* by loan type, industry, risk rating, etc.) [23] and the methodology used for each portfolio segment; [24]

• The approach used to pool loans based on similar risk characteristics;

• For accounting policy or practical expedient elections set forth in FASB ASC Subtopic 326–20, documentation of the elections made;

• The method(s) used to determine the contractual term of the financial assets, including consideration of prepayments and when the contractual term is extended; [25]

• If a loss-rate method is used, the historical data used to develop the components of the loss rate and how that rate is applied to the amortized cost basis of the financial asset as of the reporting date; [26]

• The method for estimating expected recoveries when measuring the allowance for credit losses; [27]

• The approach used to determine the appropriate historical period for estimating expected credit loss statistics;

• The approach used to determine the reasonable and supportable period;

• The approach used to adjust historical information for current conditions and reasonable and supportable forecasts; [28]

• How the entity plans to revert to historical credit loss information for periods beyond which the entity is able to make or obtain reasonable and supportable forecasts of expected credit losses; [29] and

• The approach used to determine when a purchased financial asset would qualify to be accounted for as a purchased financial asset with credit deterioration.[30]

3. Documenting the Results of a Systematic Methodology

Question 5: What documentation would the staff normally expect a registrant to prepare to support its allowance for credit losses for its loans under FASB ASC Subtopic 326–20?

Interpretive Response: Regardless of the method used to determine the allowance for credit losses under FASB ASC Subtopic 326–20, the staff normally would expect a registrant to demonstrate in its documentation that the loss measurement methods and assumptions used to estimate the allowance for credit losses for its loan portfolio are determined in accordance with GAAP as of the financial statement date.

The staff normally would expect a registrant to maintain as sufficient evidence written documentation to support its measurement of expected credit losses under FASB ASC Subtopic 326–20. That documentation should reflect the method(s) used to estimate expected credit losses for each portfolio segment.[31]

The staff normally would expect registrants to follow a systematic and consistently-applied approach to select the most appropriate expected credit loss measurement methods and support its conclusions and rationale with written documentation. Typically, registrants decide the methods to use based on many factors, which vary with their business strategies as well as their information system capabilities.

As economic and other business conditions change, registrants often modify their business strategies, which may necessitate adjustments to the methods used to estimate expected credit losses. The staff normally would expect a registrant to maintain a process to evaluate whether adjustments to the methodology are necessary and, if so, maintain documentation to support adjustments to the methodology used.

A registrant's methodology should produce an estimate that is consistent with GAAP. The staff normally would expect that, before employing an expected loss method, a registrant would evaluate and modify, as needed, the method's assumptions related to the current estimate of expected credit losses. Also, the staff expects that registrants would typically document the evaluation, the conclusions regarding the appropriateness of estimating expected credit losses with that method, and the objective support for adjustments to the method or its results.

A registrant shall measure expected credit losses on a collective (pool) basis when similar risk characteristic(s) exist.[32] The staff normally would expect a registrant to maintain documentation to support its conclusion that the loans in each pool have similar characteristics.

One method of estimating expected credit losses for a pool of loans is through the application of loss rates to the pool's aggregate loan balances.[33] Such loss rates should generally reflect the registrant's historical credit loss experience consistent with the remaining contractual terms [34] for each pool of loans, adjusted to reflect the extent to which management expects current conditions and reasonable and supportable forecasts to differ from the conditions that existed for the period over which historical information was evaluated.[35]

If a registrant utilizes external data, the staff normally would expect that the registrant would demonstrate in its documentation the relevance and reliability of the external data. The registrant should consider whether the external loss experience data comes from loans with credit attributes similar to those of the loans included in the registrant's portfolio and is consistent with the registrant's assumptions regarding current and forecasted

[22] *See* also, ASC paragraph 326–20–55–6 for additional judgments a registrant may make.

[23] FASB ASC Subtopic 326–20–20 defines a portfolio segment as the ''level at which an entity develops and documents a systematic methodology to determine its allowance for credit losses.''

[24] *See* ASC paragraph 326–20–30–3 for examples of expected loss estimation methods that may be used.

[25] *See* ASC paragraph 326–20–30–6.

[26] *See* ASC paragraph 326–20–30–5.

[27] *See* ASC paragraph 326–20–30–1.

[28] *See* ASC paragraph 326–20–30–8 and 326–20–30–9.

[29] *See* ASC paragraph 326–20–30–9

[30] *See* ASC paragraph 326–20–30–13 through 326–20–30–15.

[31] *See supra* note 20.

[32] *See* ASC paragraph 326–20–30–2. Also refer to ASC paragraph 326–20–55–5 for a list of risk characteristics that may be applicable.

[33] *See* ASC paragraph 326–20–55–18 through 326–20–55–22 for an example illustrating one way an entity may estimate expected credit losses on a portfolio of loans with similar risk characteristics using a loss-rate approach.

[34] *See* ASC paragraph 326–20–30–6 for guidance on determining the contractual term.

[35] *See* ASC paragraph 326–20–30–9 for guidance related to adjusting historical loss information.

economic conditions.[36] The staff normally would expect a registrant to maintain supporting documentation for assumptions and data used to develop its loss rates, including its evaluation of the relevance and reliability of any external data.

If a registrant uses the present value of expected future cash flows to measure expected credit losses,[37] the staff normally would expect supporting documentation for the assumptions and data used to develop the amount and timing of expected cash flows and the effective interest rate used to discount expected cash flows.

If a registrant uses the fair value of collateral to measure expected credit losses, the staff normally would expect the registrant to document:

- The basis for its conclusion that the loan qualifies under GAAP for measurement of expected credit losses based on the fair value of the collateral; [38]
- How it determined the fair value of the collateral, including policies relating to the use of appraisals, valuation assumptions and calculations, the supporting rationale for adjustments to appraised values, if any, and the determination of costs to sell, if applicable; and
- The recency and reliability of the appraisal or other valuation.

Regardless of the method used, the underlying assumptions used by registrants to develop expected credit loss measurements should consider current conditions and reasonable and supportable forecasts. The staff normally would expect a registrant to document the factors used in the development of the assumptions and how those factors affected the expected credit loss measurements.[39] Factors to be considered include the following:

- Levels of and trends in delinquencies and performance of loans;
- Levels of and trends in write-offs and recoveries collected;
- Trends in volume and terms of loans;
- Effects of any changes in reasonable and supportable economic forecasts;
- Effects of any changes in risk selection and underwriting standards, and other changes in lending policies, procedures, and practices;
- Experience, ability, and depth of lending management and other relevant staff;
- Available relevant information sources that support or contradict the registrant's own forecast;
- Effects of changes in prepayment expectations or other factors affecting assessments of loan contractual term;
- Industry conditions; and
- Effects of changes in credit concentrations.

Factors affecting collectibility that are not reflected in the registrant's historical loss information should be evaluated to determine whether an adjustment is necessary so that the expected credit loss measurement considers those factors.[40] For any adjustment of loss measurements based on current conditions and reasonable and supportable forecasts, the staff normally would expect a registrant to maintain sufficient evidence to (a) support the amount of the adjustment and (b) explain why the adjustment is necessary to reflect current conditions and reasonable and supportable forecasts in the expected credit loss measurements. Supporting documentation for adjustments may include relevant economic reports, economic data, and information from individual borrowers.

The staff normally would expect that, as part of the registrant's allowance for credit losses methodology, it would create a summary of the amount and rationale for the adjustment factor for review by management prior to the issuance of the financial statements. The staff normally would expect the nature of the adjustments, how they were measured or determined, and the underlying rationale for making the changes to the allowance for credit losses balance to be documented. The staff also normally would expect appropriate documentation of the adjustments to be provided to management for review of the final allowance for credit losses amount to be reported in the financial statements.

Similarly, the staff normally would expect that registrants would maintain documentation to support the identified range and the rationale used for determining which estimate is the best estimate within the range of expected credit losses and that this documentation would also be made available to the registrant's independent accountants. If changes frequently occur during management or credit committee reviews of the allowance for credit losses, management may find it appropriate to analyze the reasons for the frequent changes and to reassess the methodology the registrant uses.

Facts: Registrant H has completed its estimation of its allowance for credit losses for the current reporting period, in accordance with GAAP, using its established systematic methodology.

Question 6: What summary documentation would the staff normally expect Registrant H to prepare to support the amount of its allowance for credit losses to be reported in its financial statements?

Interpretive Response: The staff normally would expect that, to verify that the allowance for credit losses balances are presented fairly in accordance with GAAP and are auditable, management would prepare a document that summarizes the amount to be reported in the financial statements for the allowance for credit losses,[41] and that such documentation also include sufficient evidence to support the allowance and internal controls over the allowance. Common elements that the staff normally would expect to find documented in allowance for credit losses summaries include:

- The reasonable and supportable economic forecasts used;
- The estimate of the expected credit losses using the registrant's methodology or methodologies;
- A summary of the current allowance for credit losses balance;
- The amount, if any, by which the allowance for credit losses balance is to be adjusted; and
- Depending on the level of detail that supports the allowance for credit losses analysis, detailed subschedules of loss estimates that reconcile to the summary schedule.

Generally, a registrant's review and approval process for the allowance for credit losses relies upon the data provided in these consolidated summaries. There may be instances in which individuals or committees that review the allowance for credit losses methodology and resulting allowance balance identify adjustments that need to be made to the loss estimates to provide a better estimate of expected credit losses. These changes may occur as a result of holistically evaluating the individual components of the estimation process and considering the overall estimate of the allowance for credit losses as a whole or due to information not known at the time of the initial loss estimate. It would be important that these adjustments be consistent with GAAP and be reviewed

[36] *See* ASC paragraph 326–20–30–8.

[37] *See* ASC paragraph 326–20–30–4.

[38] *See* ASC paragraph 326–20–35–4 through 326–20–35–6 for guidance regarding when it is appropriate to measure expected credit losses based on the fair value of the collateral as of the reporting date.

[39] *See* ASC paragraph 326–20–55–4 for examples of factors to consider.

[40] *See* ASC paragraph 326–20–30–9 for guidance on when it is not appropriate to make adjustments to historical loss information for forecasted economic conditions.

[41] *See supra* note 16.

and approved by appropriate personnel. Additionally, it would typically be appropriate for the summary to provide each subsequent reviewer with an understanding of the support behind these adjustments. Therefore, the staff normally would expect management to document the nature of any adjustments and the underlying rationale for making the changes.

The staff also normally would expect this documentation to be provided to those among management making the final determination of the allowance for credit losses amount.

4. Validating a Systematic Methodology

Question 7: What is the staff's guidance to a registrant on validating, and documenting the validation of, its systematic methodology used to estimate allowance for credit losses?

Interpretive Response: The staff believes that a registrant's allowance for credit losses methodology is considered reasonable when it results in a valuation account that adjusts the net amount of its existing portfolio to cash flows expected to be collected.[42]

The staff normally would expect the registrant's systematic methodology to include procedures to assess the continued relevance and reliability of methods, data, and assumptions used to estimate expected cash flows.

To verify that the allowance for credit losses methodology is reasonable and conforms to GAAP, the staff believes it would be appropriate for management to establish internal control policies, appropriate for the size of the registrant and the type and complexity of its loan products and modeling methods.

These policies may include procedures for a review, by a party who is independent of the allowance for expected credit losses estimation process, of the allowance methodology and its application in order to confirm its effectiveness.

While registrants may employ many different procedures when assessing the reasonableness of the design and performance of its allowance for credit losses methodology and appropriateness of the data and assumptions used, the procedures should allow management to determine whether there may be deficiencies in its overall methodology. Examples of procedures may include:

- A review of how management's prior assumptions (including expectations regarding loan delinquencies, troubled debt restructurings, write-offs, and recoveries) have compared to actual loan performance;
- A review of the allowance for credit losses process by a party that is independent and possesses competencies on the subject matter. This often involves the independent party reviewing, on a test basis, source documents and underlying data and assumptions to determine that the established methodology develops reasonable loss estimates;
- A retrospective analysis of whether the models used performed in a manner consistent with the intended purpose of developing an estimate of expected credit losses; and
- When the fair value of collateral is used, an evaluation of the appraisal process of the underlying collateral. This may be accomplished by periodically comparing the appraised value to the actual sales price on selected properties sold.

The staff believes that management should support its validation process with documentation of the specific validation procedures performed, including any findings of an independent reviewer. The staff normally would expect that, if the methodology is changed based upon the findings of the validation process, documentation that describes and supports the changes would be maintained.

The staff encourages anyone with questions or suggestions regarding this interpretation to contact the staff via email at *OCA@sec.gov* or phone at (202) 551–5300.

[42] *See* ASC paragraph 326–20–30–1.

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DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 686

RIN 1205–AB96

Procurement Roles and Responsibilities for Job Corps Contracts

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: In this final rule, the Department of Labor (Department) makes two procedural changes to its Workforce Innovation and Opportunity Act (WIOA) Job Corps regulations to enable the Secretary to delegate procurement authority as it relates to the development and issuance of requests for proposals for the operation of Job Corps centers, outreach and admissions, career transitional services, and other operational support services. The Department is taking this procedural action to align regulatory provisions with the relevant WIOA statutory language and to provide greater flexibility for internal operations and management of the Job Corps program.

DATES: This final rule will become effective on December 26, 2019.

FOR FURTHER INFORMATION CONTACT: Heidi M. Casta, Deputy Administrator, Office of Policy Development and Research, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5641, Washington, DC 20210; telephone (202) 693–3700 (this is not a toll-free number).

Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Department is amending two provisions of 20 CFR part 686, which implements subtitle C of title I of WIOA. Through these amendments, the Department is aligning these regulatory provisions with the language in WIOA by broadening the authority to issue contract solicitations from the Employment and Training Administration (ETA) to the Secretary of Labor. The Department is making this procedural change to the WIOA regulation to provide greater flexibility in the management and operation of the Job Corps program by allowing the Secretary of Labor to designate the component of the Department that is authorized to issue solicitations for the operation of Job Corps centers, outreach and admissions, career transitional services, and other operational support services. This change will provide the Department with the flexibility to more efficiently manage the Job Corps procurement process, which will in turn allow greater economies of scale and operational efficiencies. This rule is consistent with the President's Management Agenda Cross-Agency Priority (CAP) Goal Number 5—Sharing Quality Services. The Department is implementing this CAP, in part, via the Department's Enterprise-Wide Shared Services Initiatives whose primary goals are as follows:

1. Improve human resources efficiency, effectiveness, and accountability;

2. Provide modern technology solutions that empower the DOL

mission and serve the American public through collaboration and innovation;

3. Maximize DOL's federal buying power through effective procurement management; and

4. Safeguard fiscal integrity, and promote the effective and efficient use of resources.

This rule will assist the Department's implementation of its Enterprise-Wide Shared Services Initiative.

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

II. Summary of Final Rule

Sec. 147(a) of WIOA authorizes the Secretary of Labor to enter into agreements with eligible entities to operate Job Corps centers and to provide activities to a Job Corps center. Two provisions in the regulation implementing subtitle C of Title I of WIOA implement section 147(a). Title 20 CFR 686.310(a) broadly states that the Secretary selects eligible entities to operate contract centers on a competitive basis in accordance with applicable statutes and regulations, and 20 CFR 686.340(a) states that the Secretary selects eligible entities to provide outreach and admission, career transition, and operational support services on a competitive basis in accordance with applicable statutes and regulations. However, both provisions also specifically require ETA to develop and issue solicitations for these Job Corps contracts. These provisions are inconsistent with section 147(a) and constrain the Department's ability to assign the authority to develop and issue solicitations to whichever component of the agency determined appropriate to further the important goals of selecting the appropriate entities to support the Job Corps program.

This final rule amends §§ 686.310(a) and 686.340(a) by replacing ''ETA'' with ''the Secretary.'' Through this final rule, the Department is aligning the text of sections 686.310(a) and 686.340(a) with the statutory language in section 147(a) of WIOA, eliminating the inconsistency between the regulation and the statute. This change affords the Department greater flexibility to manage and oversee the Job Corps procurement process in a manner that it determines appropriate.

III. Discussion of Public Comments

The Department invited written comments on all aspects of the proposed rule from interested parties for consideration prior to issuing a final rule (84 FR 45449). The written comment period closed on September 30, 2019. The Department received two significant adverse comments. The Department also received one comment that was outside the scope of the rulemaking.

One commenter that represents a national association expressed a concern that decentralization of procurement authority outside of ETA would result in ''the further separation of Job Corps' programmatic, budget, and procurement authorities which could negatively impact Job Corps center operations, students, and taxpayers.'' The commenter opined that the proposal, if implemented, would place Job Corps' procurement function under a different agency, with different political leadership, different goals and priorities, and different measures of performance success. This, according to the commenter, could potentially negatively impact Job Corps students. The commenter suggested that because of the interrelation between program, budget, and contracting, all Job Corps contracting functions should be consolidated under a single political official or, ideally, within the Office of Job Corps, but regardless suggested that the Department establish performance measures for contracting officials related to student outcomes.

The second commenter opined that the proposed change would affect how contracts for outreach and admission, career transition and operational services would be awarded. Specifically, the commenter expressed concern that the change would politicize the awarding of Job Corps contracts, in contravention of OMB's Uniform Guidance, rather than awards being made on the basis of an offeror's technical ability to provide the services.

No change to the proposal is being made in response to these comments. This change aligns the Job Corps regulation with the statutory language and affords the Department greater flexibility in managing the Job Corps procurement functions. The Department disagrees that this change will adversely impact the operation of the Job Corps program. The Department and ETA will continue to support Job Corps and its programmatic needs and interests, including ensuring that there is appropriate coordination and consultation during the various phases of the procurement process. ETA program and budget staff will continue to work closely with the assigned procurement staff to develop and review, as appropriate, solicitations for Job Corps operation and support contracts. Similarly, these changes do not involve or limit the evaluation of proposals or quotations submitted in response to solicitations. Additionally, the Department disagrees that this change will politicize the awarding of Job Corps contracts. The Department will continue to conduct all Job Corps procurements in accordance with the relevant provisions of the Federal Acquisition Regulations, which, contrary to the commenter's assertion, governs the development and award of all Job Corps contract solicitations and awards, as well as in compliance with all of the WIOA statutory and regulatory requirements and the evaluation and selection criteria announced in Department solicitations. Regarding the commenter's suggestion to establish performance measures for contracting officials related to student outcomes, the Department does not tie performance measures for contracting officials related to either formation or administration of contracts to program outcomes. Successful program outcomes are the responsibility of the office administering the program, in this case the Office of Job Corps, and the contractors directly serving students.

Therefore, the Department is finalizing the regulatory text as proposed.

IV. Rulemaking Analyses and Notices

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)

Executive Order 12866 requires that regulatory agencies assess both the costs and benefits of significant regulatory actions. Under the Executive Order, a ''significant regulatory action'' is one meeting any of a number of specified conditions, including the following: Having an annual effect on the economy of $100 million or more; creating a serious inconsistency or interfering with an action of another agency; materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues. The Department has determined that this final rule is not a ''significant'' regulatory action and a cost-benefit and economic analysis is not required. This regulation merely makes a procedural change to allow flexibility to manage and oversee the Job Corps procurement process in a manner that the Department determines appropriate.

Executive Order 13563 directs 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). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility to minimize burden.

This rule makes only a procedural change to allow flexibility to manage and oversee the Job Corps procurement process in a manner that the Department determines appropriate. Therefore, this rule is not expected to have any regulatory impacts.

Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act

The Regulatory Flexibility Act (RFA), at 5 U.S.C. 603(a), requires agencies to prepare and make available for public comment an initial regulatory flexibility analysis, which describes the impact of the final rule on small entities. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the final rule is not expected to have a significant economic impact on a substantial number of small entities. This final rule does not affect small entities as defined in the RFA. Therefore, the Department certifies that the final rule will not have a significant economic impacts on a substantial number of small entities.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the Department consider the impact of paperwork and other information collection burdens imposed on the public. The Department has determined that this rule does not alter any information collection burdens.

Executive Order 13132 (Federalism)

Section 6 of E.O. 13132 requires Federal agencies to consult with State entities when a regulation or policy may have a substantial direct effect on the States, the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government, within the meaning of the E.O. Section 3(b) of the E.O. further provides that Federal agencies must implement regulations that have a substantial direct effect only if statutory authority permits the regulation and it is of national significance.

This final rule does not have a substantial direct effect on the States, the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government, within the meaning of the E.O. This final rule merely makes a procedural change for internal Departmental operations and management for Job Corps procurement.

Unfunded Mandates Reform Act of 1995

This regulatory action has been reviewed in accordance with the Unfunded Mandates Reform Act of 1995 (the Reform Act). Under the Reform Act, a Federal agency must determine whether a regulation proposes a Federal mandate that would result in the increased expenditures by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any single year. This final rule merely makes an administrative change regarding the Departmental entity authorized for Job Corps procurement responsibilities. Therefore, the relevant requirements the Reform Act do not apply.

Executive Order 13175 (Indian Tribal Governments)

The Department has reviewed the final rule under the terms of E.O. 13175 and DOL's Tribal Consultation Policy, and have concluded that the changes to regulatory text which are the focus of the final rule would not have tribal implications, as these changes do not have substantial direct effects on one or more Indian tribes, the relationship between the Federal Government and Indian tribes, nor the distribution of power and responsibilities between the Federal Government and Indian tribes. Therefore, no consultations with tribal governments, officials, or other tribal institutions were necessary.

List of Subjects in 20 CFR Part 686

Employment, Grant programs—labor, Job Corps.

Amended Regulatory Text

For the reasons stated in the preamble, the Department amends 20 CFR part 686 as follows:

PART 686—THE JOBS CORPS UNDER TITLE I OF THE WORKFORCE INNOVATION AND OPPORTUNITY ACT

■ 1. The authority citation for part 686 continues to read as follows:

Authority: Secs. 142, 144, 146, 147, 159, 189, 503, Pub. L. 113–128, 128 Stat. 1425 (Jul. 22, 2014).

■ 2. Amend § 686.310 by revising paragraph (a) to read as follows:

§ 686.310 How are entities selected to receive funding to operate centers?

(a) The Secretary selects eligible entities to operate contract centers on a competitive basis in accordance with applicable statutes and regulations. In selecting an entity, the Secretary issues requests for proposals (RFPs) for the operation of all contract centers according to the Federal Acquisition Regulation (48 CFR chapter 1) and Department of Labor Acquisition Regulation (48 CFR chapter 29). The Secretary develops RFPs for center operators in consultation with the Governor, the center workforce council (if established), and the Local WDB for the workforce development area in which the center is located.

* * * * *

■ 3. Amend § 686.340 by revising paragraph (a) to read as follows:

§ 686.340 How are entities selected to receive funding to provide outreach and admission, career transition and other operations support services?

(a) The Secretary selects eligible entities to provide outreach and admission, career transition, and operational services on a competitive basis in accordance with applicable statutes and regulations. In selecting an entity, the Secretary issues requests for proposals (RFP) for operational support services according to the Federal Acquisition Regulation (48 CFR chapter 1) and Department of Labor Acquisition Regulation (48 CFR chapter 29). The Secretary develops RFPs for operational support services in consultation with the Governor, the center workforce council (if established), and the Local WDB for the workforce development area in which the center is located.

* * * * *

John Pallasch,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2019–25441 Filed 11–22–19; 8:45 am]

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DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Parts 478, 555, and 771

[Docket No. ATF 33F; AG Order No. 4577–2019]

RIN 1140–AA40

Rules of Practice in Explosives License and Permit Proceedings (2007R–5P); Revisions Reflecting Changes Consistent With the Homeland Security Act of 2002

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is amending the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) concerning procedures and practices in connection with denials of initial applications, denials of renewals, and revocations of explosives licenses or permits. These regulations are being codified in a new part entitled, ''Rules and Practice in License and Permit Proceedings.'' These regulations are based upon the regulations that ATF relied upon prior to its transfer from the Department of the Treasury to the Department of Justice. This final rule makes minor revisions to regulations governing administrative proceedings related to the denial, suspension, or revocation of a license, and the imposition of a civil fine under Federal firearms law to reference regulations under ATF authority. These revisions remove all references to statutes, regulations, positions, and other terms that are applicable only to the Department of the Treasury. These revisions reflect ATF's position as a regulatory and enforcement agency under the Department of Justice and are consistent with the regulations governing administrative hearing processes for explosives licenses and permits.

DATES: This rule is effective December 26, 2019.

FOR FURTHER INFORMATION CONTACT: Denise Brown, Enforcement Programs and Services, Office of Regulatory Affairs, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue NE, Washington, DC 20226; telephone: (202) 648–7070.

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General has delegated to the Director of ATF responsibility for administering and enforcing title I of the Gun Control Act of 1968 (GCA), Public Law 90–618, as amended, 18 U.S.C. chapter 44, relating to commerce in firearms and ammunition; and title XI, Regulation of Explosives, of the Organized Crime Control Act of 1970 (OCCA), Public Law 91–452, as amended, 18 U.S.C. chapter 40. *See* 18 U.S.C. 926(a); 18 U.S.C. 843; 28 CFR 0.130. Under the GCA, ATF has the authority to license applicants, renew licenses, and revoke Federal firearms licenses. 18 U.S.C. 923. The OCCA, as amended by the Safe Explosives Act, title XI, subtitle C of Public Law 107–296, the Homeland Security Act of 2002 (enacted November 25, 2002), authorizes ATF to provide licenses and permits to qualified applicants for the acquisition, distribution, storage, or use of explosive materials and to renew or revoke such licenses and permits. 18 U.S.C. 843.

A. Rules of Practice in Permit Proceedings (27 CFR Part 71)

On November 25, 2002, President George W. Bush signed the Homeland Security Act of 2002, Public Law 107–296 (the Act), which divided the regulatory functions of the Bureau of Alcohol, Tobacco, and Firearms into two separate agencies. The Act renamed the Bureau of Alcohol, Tobacco, and Firearms as the Bureau of Alcohol, Tobacco, Firearms, and Explosives and transferred law enforcement and certain regulatory functions to the Department of Justice. The Act also retained in the Department of the Treasury (Treasury) certain functions of the former Bureau of Alcohol, Tobacco, and Firearms. The functions retained by Treasury became the responsibility of a new Alcohol and Tobacco Tax and Trade Bureau (TTB). As a result of the Act, TTB has all regulatory authority under 27 CFR part 71 and ATF therefore cannot promulgate new regulations under that part, although ATF has continued to follow the procedures set forth in part 71 to administer hearings related to the application and revocation of Federal explosives licenses and permits. *See* 28 CFR 0.133(a)(2).

B. License Proceedings (27 CFR Part 478)

Regulations that implement the provisions of the GCA are set forth in 27 CFR part 478. Subpart E of part 478 relates to proceedings involving Federal firearms licensees, including the denial, suspension, or revocation of licenses and the imposition of civil fines. Specifically, 27 CFR 478.76 provides that, at a hearing for the disapproval of applications for firearms licenses, for the denial, suspension, or revocation of a firearms license, or for imposition of a civil fine under Federal firearms law, an applicant or licensee may be represented by an attorney, a certified public accountant, or any other person recognized to practice before ATF as provided in 31 CFR part 8, if the representative complies with the applicable practice requirements of 26 CFR 601.521 through 601.527.

C. License and Permit Proceedings (27 CFR Part 555)

The regulations that implement OCCA procedural and substantive requirements are found in 27 CFR part 555. Subpart E of part 555 relates to proceedings involving Federal explosives licensees and permittees, including the denial of an initial application, denial of a renewal, and revocation of a license or permit. Specifically, 27 CFR 555.78 provides that, at a hearing for the disapproval of applications for explosives licenses, and for the denial of renewal or revocation of such licenses or permits under Federal explosives law, an applicant, licensee, or permittee may be represented by an attorney, a certified public accountant, or any other person recognized to practice before ATF as provided in 31 CFR part 8, if the representative complies with the applicable practice requirements of 26 CFR 601.521 through 601.527.

II. Notice of Proposed Rulemaking

On October 7, 2014, the Department of Justice published a notice of proposed rulemaking with a request for comments entitled, ''Rules of Practice in Explosives License and Permit Proceedings (2007R–5P); Revisions Reflecting Changes Consistent with the Homeland Security Act of 2002.'' 79 FR 60391–60405. The proposed rule sought to revise ATF regulations to add a new part that implements 18 U.S.C. 843 and 847 relating to the procedures and practice for the denials of initial applications, denials of renewal, and revocations of explosives licenses or permits by ATF under Federal explosives law. Additionally, the proposed rule sought to make minor revisions to regulations governing administrative proceedings related to the denial, suspension, or revocation of a license, and the imposition of a civil fine under Federal firearms law to reference regulations under ATF authority. These changes clarify ATF's role in explosives license proceedings and remove references to any regulations outside the scope of ATF's authority.

Comments on the notice of proposed rulemaking were to be submitted to ATF on or before January 5, 2015.

III. Comment Analysis and Department Response

Comments Received

In response to the notice of proposed rulemaking, ATF received two comments. One commenter is an explosive and fertilizer trade association; and the other is a university student. Both commenters support ATF's proposal to transfer and consolidate regulations governing explosives license applications and renewals or revocation of licenses and

permits, improving the enforcement of ATF's regulations.

One of the commenters, the Institute of Makers of Explosives (IME), notes that the creation of a new part 771 addresses jurisdictional and authority issues within ATF. IME agrees that ATF should maintain jurisdiction for all explosives programs and since the regulatory authority over part 71 resides with another agency, ATF should promulgate new regulations affecting the procedures for hearings that it is responsible for conducting. IME further states: ''If promulgated, the new Part will bring all administrative and enforcement responsibilities connected with the explosives licensing and permitting program under the jurisdiction of ATF and will allow the Bureau, itself, to affect any necessary changes to the procedural rules governing its due process proceedings.'' Further, IME agrees with ATF's clarification of 27 CFR 555.78 that will allow for self-representation in licensing and permit hearings conducted by ATF.

The second commenter, a student, generally supports the rule because the proscribed regulation changes will not hurt the economy but rather ''help[s] the economy, productivity, competition, jobs, the environment, public health or safety, State, local, or tribal government and communities.'' The same commenter further notes that the rule gives every person the right to due process if their application has been denied for a firearm.

Department Response

The Department agrees that by promulgating regulations in a new part, 27 CFR part 771, ATF will be able to better govern and administer explosives license and permit proceedings that come under its jurisdiction.

IV. Final Rule

This final rule implements the amendments to the regulations in 27 CFR 478.76, 555.73, 555.75, 555.78, 555.79, 555.82, and adds new part 771, as specified in the notice of proposed rulemaking published on October 7, 2014 (79 FR 60391–60405). Additionally, this final rule includes some minor technical amendments. First, in 27 CFR 771.5, the definition of ''Application'' is amended to include renewal applications and the definition of ''Person'' is amended to include ''company.'' Second, § 771.59, which governs an initial application for a license or permit, is amended to eliminate the statement that a request for hearing should include a statement of the reasons for a hearing; this change makes this provision consistent with the requirements for an existing Federal explosive licensee requesting a hearing in § 771.60. Third, §§ 771.59 and 771.60 are amended to add that the licensee or permittee will receive notice of the assignment of an administrative law judge (ALJ) by the Director of Industry Operations (DIO), if the ALJ has not already provided such notice; this clarifies that the ALJ will often provide this notification but the DIO must provide this notice if not already provided by the ALJ. Fourth, a reference to § 771.59 is added in § 771.64, which concerns part of the process following a request for a hearing, to reflect the fact that requests for a hearing can be made as a result of denial of an initial application in addition to the revocation or denial of a renewal application. Fifth, § 771.82 is amended to include a statement that the Federal Rules of Evidence are not binding on these proceedings, and to include a reference to expert testimony and the relevant Federal Rule of Evidence in § 771.82(a). These changes are necessary to clarify what is admissible in a hearing and to clarify that both opinion and expert testimony shall be admitted in a hearing when the ALJ is satisfied that the witness is properly qualified pursuant to Federal Rules of Evidence 701 or 702. Sixth, § 771.95, which governs the responsibilities of an ALJ, is amended to eliminate the sentence that ALJs shall be under the administrative control of the Director. This sentence addresses the responsibilities of the Director and not the responsibilities of the ALJs. Therefore, the sentence is unnecessary as to the responsibilities of the ALJ and confusing as to application. Seventh, § 771.97(k), which authorizes the ALJ to take any action authorized by an ATF rule and consistent with the Administrative Procedure Act, is amended to add a cross-reference to ATF's authority concerning licenses and permits, 18 U.S.C. 843, and the provision of the Administrative Procedure Act setting out authority for individuals presiding over agency hearings, 5 U.S.C. 556(c). Eighth, the final rule amends 27 CFR 771.99 to state that disorderly or contemptuous language or conduct by an attorney (either for a licensee or permittee or for the Government), may be reported to the Department of Justice, Office of Professional Responsibility, consistent with 28 CFR 0.39a(a)(9). Finally, other changes eliminate superfluous language or correct stylistic errors.

V. Statutory and Executive Order Review

A. Executive Order 12866, 13563, and 13771

This final rule has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review,'' section 1(b), The Principles of Regulation; Executive Order 13563, ''Improving Regulation and Regulatory Review,'' section 1(b), General Principles of Regulation, and section 6, Retrospective Analyses of Existing Rules; and Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs.''

Both 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). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule consolidates and clarifies regulations governing explosives license application renewal or revocation of licenses and permits. This rule would not add any costs to industry because this rule puts into regulation current industry and agency practices; therefore, the explosives industry would not need to incur any hourly or capital burdens in order to comply with this final rule. The Department has assessed the costs and benefits of this regulation and believes that the regulatory approach selected imposes no new regulatory costs and maximizes net benefits.

This final rule will not have an annual effect on the economy of $100 million or more, nor will it adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government or communities. Similarly, it does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof, or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. The Department has determined that this final rule is not a ''significant regulatory action'' as defined in Executive Order 12866, section 3(f). Accordingly, this

final rule has not been reviewed by the Office of Management and Budget (OMB).

Because this rule is not significant under Executive Order 12866, this action is not subject to Executive Order 13771, ''Reducing Regulations and Controlling Regulatory Costs.''

Section 6 of Executive Order 13563 directs agencies to develop a plan to review existing significant rules that may be ''outmoded, ineffective, insufficient, or excessively burdensome,'' and to make appropriate changes where warranted. The Department selected and reviewed this rule under the criteria set forth in its Plan for Retrospective Analysis of Existing Rules, and determined that this rule merely transfers and consolidates regulations governing explosives license application renewal or revocation of licenses and permits, improving the enforcement of ATF regulations.

B. Executive Order 13132

This final rule will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, ''Federalism,'' the Attorney General has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

C. Executive Order 12988

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

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 605(b)) exempts an agency from the requirement to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. The Attorney General has reviewed this final rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities.

This final rule codifies the ATF regulations governing the procedure and practice for denying applications, denying renewals, and revoking explosives licenses or permits under Federal explosives law in a new part 771 under ATF's regulatory authority. Additionally, this final rule updates the regulations governing the denial, suspension, or revocation of a firearms license, and imposition of a civil fine under Federal firearms law to only reference regulations under ATF authority. This rule also amends the regulations to require an applicant or licensee in a proceeding concerning the denial, suspension, or revocation of a firearms license, or the imposition of a civil fine under Federal firearms law, to file a duly executed power of attorney designating his representative, and waivers, if applicable, under the Privacy Act of 1974. *See* 5 U.S.C. 552(a), and 26 U.S.C. 6103(c) (confidentiality and disclosure of returns and return information). This is required in the current regulations by reference to 31 CFR part 8 and 26 CFR 601.521 through 601.527. The changes in this final rule are purely administrative and do not add any new requirements that would have any impact on the economy.

E. Small Business Regulatory Enforcement Fairness Act of 1996

This final rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996. *See* 5 U.S.C. 804. This final rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

F. Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

G. Paperwork Reduction Act

This final rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Drafting Information

The author of this document is Denise Brown; Enforcement Programs and Services; Office of Regulatory Affairs, Bureau of Alcohol, Tobacco, Firearms, and Explosives.

List of Subjects

27 CFR Part 478

Administrative practice and procedure, Arms and munitions, Customs duties and inspection, Exports, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, Transportation.

27 CFR Part 555

Administrative practice and procedure, Customs duties and inspection, Explosives, Hazardous substances, Imports, Penalties, Reporting and recordkeeping requirements, Safety, Security measures, Seizures and forfeitures, Transportation, Warehouses.

27 CFR Part 771

Administrative practice and procedure, Explosives.

Authority and Issuance

Accordingly, for reasons discussed in the preamble, 27 CFR chapter II is amended as follows:

PART 478—COMMERCE IN FIREARMS AND AMMUNITION

■ 1. The authority citation for 27 part 478 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 921–931; 44 U.S.C. 3504(h).

■ 2. Revise § 478.76 to read as follows:

§ 478.76 Representation at a hearing.

Applicants or licensees may represent themselves or be represented by an attorney, a certified public accountant, or any other person, specifically designated in a duly executed power of attorney that shall be filed in the proceeding by the applicant or licensee. The applicant or licensee shall file waivers, if applicable, under the Privacy Act of 1974 and 26 U.S.C. 6103(c) (confidentiality and disclosure of returns and return information). The Director of Industry Operations may be represented in proceedings under §§ 478.72 and 478.74 by an attorney in the Office of Chief Counsel who is authorized to execute and file motions, briefs, and other papers in the proceeding, on behalf of the Director of Industry Operations, in the attorney's own name as ''Attorney for the Government.''

PART 555—COMMERCE IN EXPLOSIVES

■ 3. The authority citation for 27 CFR part 555 continues to read as follows:

Authority: 18 U.S.C. 847.

§ 555.73 [Amended]

■ 4. Amend § 555.73 by removing ''part 71'' and adding in its place ''part 771''.

§ 555.75 [Amended]

■ 5. Amend § 555.75 by removing ''part 71'' and adding in its place ''part 771''.

■ 6. Revise § 555.78 to read as follows:

§ 555.78 Representation at a hearing.

An applicant, licensee, or permittee may represent himself, or be represented by an attorney, a certified public accountant, or any other person, specifically designated in a duly executed power of attorney that shall be filed in the proceeding by the applicant, licensee, or permittee. The applicant, licensee, or permittee shall file waivers, if applicable, under the Privacy Act of 1974 and 26 U.S.C. 6103(c) (confidentiality and disclosure of returns and return information). The Director of Industry Operations may be represented in proceedings under §§ 555.73 and 555.75 by an attorney in the Office of Chief Counsel who is authorized to execute and file motions, briefs and other papers in the proceeding, on behalf of the Director of Industry Operations, in the attorney's own name as ''Attorney for the Government.''

§ 555.79 [Amended]

■ 7. Amend § 555.79 by removing ''(a)'', ''(b)'', and ''(c)'' and removing ''part 71'' and adding in its place ''part 771''.

■ 8. Revise § 555.82 to read as follows:

§ 555.82 Rules of practice in license and permit proceedings.

Regulations governing the procedure and practice for disapproval of applications for explosives licenses and permits and for the denial of renewal or revocation of such licenses and permits under the Act are contained in part 771 of this chapter.

■ 9. Add subchapter E, consisting of part 771, to read as follows:

SUBCHAPTER E—EXPLOSIVE LICENSE AND PERMIT PROCEEDINGS

PART 771—RULES OF PRACTICE IN EXPLOSIVE LICENSE AND PERMIT PROCEEDINGS

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771.2 Liberal construction.
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Time

771.28 Computation.
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771.30 Personal representation.
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771.135 What constitutes record.
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Authority: 18 U.S.C. 843, 847.

Subpart A—Scope and Construction of Regulations

§ 771.1 Scope of part.

Regulations in this part govern procedures and practices for disapproving applications for licenses and permits and denying renewal of or revocation of such licenses or permits under 18 U.S.C. chapter 40.

§ 771.2 Liberal construction.

Regulations in this part shall be liberally construed to secure just, expeditious, and efficient determination of the issues presented. The Rules of Civil Procedure for the U.S. District Courts (28 U.S.C. appendix) are not controlling, but may act as a guide in any situation not provided for or controlled by this part and shall be liberally construed or relaxed when necessary.

§ 771.3 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) Requests for forms should be made to the ATF Distribution Center or through the ATF website at *http://www.atf.gov*.

Subpart B—Definitions

§ 771.5 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning provided in this subpart. Words in the plural form shall include the singular, and *vice versa,* and words importing the masculine gender shall include the feminine.

Administrative law judge. The person appointed pursuant to 5 U.S.C. 3105, designated to preside over any administrative proceedings under this part.

Applicant. Any person who has filed an application for a license or permit under 18 U.S.C. chapter 40.

Application. Any application for a license or permit, including renewal applications, under 18 U.S.C. chapter 40.

ATF. The Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

Attorney for the Government. An attorney in the ATF Office of Chief Counsel authorized to represent the Director of Industry Operations in the proceeding.

CFR. The Code of Federal Regulations.

Contemplated notice. Includes any notice contemplating the revocation or denial of renewal of a license or permit.

Director. The Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

Director of Industry Operations. The principal ATF official in a Field Operations division responsible for administering regulations in this part.

Ex parte communication. An oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but not including requests for status reports.

Initial decision. The decision of the Director of Industry Operations in a proceeding concerning the revocation of, denial of renewal of, or denial of application for a license or permit. This decision becomes the agency's final decision in the absence of an appeal.

Final decision. The definitive decision of ATF, *e.g.,* the agency's decision in the absence of an appeal or the Director's decision following an appeal to the Director.

License. Subject to applicable law, entitles the licensee to transport, ship, and receive explosive materials in interstate or foreign commerce, and to engage in the business specified by the license, at the location described on the license.

Licensee. Any importer, manufacturer, or dealer licensed under the provisions of 18 U.S.C. chapter 40 and 27 CFR part 555.

Limited permit. A permit issued to a person authorizing him to receive for his use explosive materials from a licensee or permittee in his State of residence on no more than six occasions during the 12-month period in which the permit is valid. A limited permit does not authorize the receipt or transportation of explosive materials in interstate or foreign commerce.

Other term. Any other term defined in the Federal explosives laws (18 U.S.C. chapter 40), the regulations promulgated thereunder (27 CFR part 555), or the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), where used in this part, shall have the meaning assigned to it therein.

Permittee. Any user of explosives for a lawful purpose who has obtained either a user permit or a limited permit under 18 U.S.C. chapter 40 and 27 CFR part 555.

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

Recommended decision. The advisory decision of the administrative law judge in any proceeding regarding the revocation of, denial of renewal of, or denial of application for a license or permit. ATF must act on a recommended decision with its own initial or final decision.

User-limited permit. A user permit valid only for a single purchase transaction. Recipients of a user-limited permit must obtain a new permit for any subsequent purchase transaction.

User permit. A permit issued to a person authorizing him to—

(1) Acquire for his own use explosive materials from a licensee in a State other than the State in which he resides or from a foreign country; and

(2) Transport explosive materials in interstate or foreign commerce.

Willfulness. The plain indifference to, or purposeful disregard of, a known legal duty. Willfulness may be demonstrated by, but does not require, repeat violations involving a known legal duty.

Subpart C—General

§ 771.25 Communications and pleadings.

(a) All communications to the Government regarding the procedures set forth in this part and all pleadings, such as answers, motions, requests, or other papers or documents required or permitted to be filed under this part, relating to a proceeding pending before an administrative law judge, shall be addressed to the administrative law judge at his post of duty and the Attorney for the Government. Communications concerning proceedings not pending before an administrative law judge should be addressed to the Director of Industry Operations or Director, as the case may be.

(b) Except to the extent required for the disposition of ex parte matters as authorized by law, no ex parte communications shall be made to or from the administrative law judge concerning the merits of the adjudication. If the administrative law judge receives or makes an ex parte communication not authorized by law, the administrative law judge shall place on the record of the proceeding:

(1) All such written communications;

(2) Memoranda stating the substance of all such oral communications; and

(3) All written responses and memoranda stating the substance of all oral responses to paragraphs (b)(1) and (2) of this section.

§ 771.26 Service on applicant, licensee, or permittee.

All orders, notices, motions, and other formal documents required to be served under the regulations in this part may be served by mailing a signed, original copy thereof to the designated representative of the applicant, licensee, or permittee by certified mail, with request for return receipt card, at the representative's business address, by personal service, or as otherwise agreed

to by the parties. If the applicant, licensee, or permittee has not yet designated a representative, all orders, notices, motions, and other formal documents required to be served under the regulations in this part may be served by mailing a signed, original copy thereof to the applicant, licensee, or permittee at the address stated on his application, license, or permit, or at his last known address, or by delivery of such original copy to the applicant, licensee, or permittee personally, or in the case of a corporation, partnership, or other unincorporated association, by delivering the same to an officer, or manager, or general agent thereof, or to its attorney of record. Such personal service may be made by any employee of the Department of Justice designated by the Attorney General or by any employee of ATF. A certificate of mailing and the return receipt card, or certificate of service signed by the person making such service, shall be filed as a part of the record.

§ 771.27 Service on the Director of Industry Operations or Director.

Pleadings, motions, notices, and other formal documents may be served by certified mail, by personal service, or as otherwise agreed to by the parties, on the Director of Industry Operations (or upon the Attorney for the Government on behalf of the Director of Industry Operations), or on the Director, if the proceeding is before him for review on appeal.

Time

§ 771.28 Computation.

In computing any period of time prescribed or allowed by this part, the day of the act, event, or default after which the designated period of time is to run is not to be included. The last day of the period to be computed is to be included, unless it is a Saturday, Sunday, or Federal holiday, in which event the period runs until the next day that is not a Saturday, Sunday, or Federal holiday. Pleadings, requests, or other papers or documents required or permitted to be filed under this part must be received for filing at the appropriate office within the time limits, if any, for such filing.

§ 771.29 Continuances and extensions.

For good cause shown, the administrative law judge, Director, or Director of Industry Operations, as the case may be, may grant continuances and, as to all matters pending before him, extend any time limit prescribed by the regulations in this part (except where the time limit is statutory).

Representation at Hearings

§ 771.30 Personal representation.

Any individual or member of a partnership may appear for himself, or for such partnership, and a corporation or association may be represented by a bona fide officer of such corporation or association, upon showing of adequate authorization.

§ 771.31 Attorneys and other representatives.

An applicant, licensee, or permittee may represent himself, or be represented by an attorney, a certified public accountant, or any other person, specifically designated in a duly executed power of attorney that shall be filed in the proceeding by the applicant, licensee, or permittee. The applicant, licensee, or permittee shall file waivers, if applicable, under the Privacy Act of 1974 and 26 U.S.C. 6103(c) (confidentiality and disclosure of returns and return information). The Director of Industry Operations may be represented in proceedings by an attorney in the Office of Chief Counsel who is authorized to execute and file motions, briefs, and other papers in the proceeding on behalf of the Director of Industry Operations, in the attorney's own name as ''Attorney for the Government.''

Subpart D—Compliance and Settlement

§ 771.35 Opportunity for compliance.

No license or permit shall be revoked or denied renewal unless, prior to the institution of proceedings, facts or conduct warranting such action shall have been called to the attention of the licensee or permittee by the Director of Industry Operations in writing in a contemplated notice, and the licensee or permittee shall have been accorded an opportunity to demonstrate or achieve compliance with all lawful requirements as set forth in section 9(b) of the Administrative Procedure Act. In cases in which the Director of Industry Operations alleges in his contemplated notice, with supporting reasons, willful violations or that the public interest requires otherwise, this section does not apply and the issuance of a contemplated notice is unnecessary.

§ 771.36 Settlement.

Any proposals of settlement should be made to the Director of Industry Operations, but may be made through the Attorney for the Government. Where necessary, the date of the hearing may be postponed pending consideration of such proposals when they are made in good faith and not for the purpose of delay. If proposals of settlement are submitted, and they are considered unsatisfactory, the Director of Industry Operations may reject the proposals and may, either directly or through the Attorney for the Government, inform the licensee or permittee of any conditions on which the alleged violations may be settled. If the proposals of settlement are considered satisfactory to the Director of Industry Operations, the licensee or permittee shall be notified thereof and the proceeding shall be dismissed.

§ 771.37 Notice of contemplated action.

Where the Director of Industry Operations has not ascertained whether the licensee or permittee has willfully violated the Federal explosives laws and where he believes the matter has the potential to be settled informally, *i.e.,* without formal administrative proceedings, he shall, in accordance with section 5(b) of the Administrative Procedure Act, prior to the issuance of a notice of revocation or denial of renewal, give the licensee or permittee a contemplated notice of such action and an opportunity to show why the license or permit should not be revoked or denied renewal. The notice should inform the licensee or permittee of the charges on which the notice would be based, if issued, and afford him a period of 15 days from the date of the notice, or such longer period as the Director of Industry Operations deems necessary, in which to submit proposals of settlement to the Director of Industry Operations. Where informal settlement is not reached promptly because of inaction by the applicant, licensee, or permittee or proposals are made for the purpose of delay, a notice shall be issued in accordance with § 771.42 or § 771.43, as appropriate. The issuance of a notice of contemplated action does not entitle the recipient to a hearing before an administrative law judge.

§ 771.38 Licensee's or permittee's failure to meet requirements within reasonable time.

If the licensee or permittee fails to meet the requirements of applicable laws and regulations in this part within such reasonable time as may be specified by the Director of Industry Operations, proceedings for revocation or denial of renewal of the license or permit shall be initiated.

§ 771.39 Authority of Director of Industry Operations to proceed with revocation or denial action.

Where the evidence is conclusive and the nature of the violation is such as to preclude any settlement, the violation is of a continuing character that necessitates immediate action to protect

the public interest, or the Director of Industry Operations believes that any informal settlement of the alleged violation will not ensure future compliance with applicable laws and regulations in this part, or in any similar case where the circumstances are such as to clearly preclude informal settlement, and the Director of Industry Operations so finds and states the reasons therefor in the notice, the Director of Industry Operations may proceed with the revocation or denial of renewal.

Subpart E—Revocation or Denial

§ 771.40 Denial of initial application.

Whenever the Director of Industry Operations has reason to believe that an applicant for an original license or permit is not eligible to receive a license or permit under the provisions of § 555.49 of this chapter, the Director of Industry Operations shall issue a notice of denial on ATF Form 5400.11 (Notice of Denial of Application for License or Permit) (F 5400.11). The notice will set forth the matters of fact and law relied upon in determining that the application should be denied and will afford the applicant 15 days from the date of receipt of the notice in which to request a hearing to review the denial. If no request for a hearing is filed within that time, a copy of the application, marked ''Disapproved,'' will be returned to the applicant.

§ 771.41 Denial of renewal application or revocation of license or permit.

If, following the opportunity for compliance under § 555.71 of this chapter, or without opportunity for compliance under § 555.71 of this chapter as circumstances warrant, the Director of Industry Operations finds that the licensee or permittee is not likely to comply with applicable laws or regulations in this part or is otherwise not eligible to continue operations authorized under his license or permit, the Director of Industry Operations shall issue a notice of denial of the renewal application or revocation of the license or permit, ATF F 5400.11 (Notice of Denial of Application for License or Permit) or ATF Form 5400.10 (Notice of Revocation of License or Permit) (F 5400.10), as appropriate. The notice will set forth the matters of fact constituting the violations specified, dates, places, and the sections of law and regulations violated. In the case of the revocation of a license or permit, the notice will specify the date on which the action is effective, which date will be on or after the date the notice is served on the licensee or permittee. The notice will also advise the licensee or permittee that he may, within 15 days after receipt of the notice, request a hearing and, if applicable, a stay of the effective date of the revocation of his license or permit.

§ 771.42 Grounds for revocation of licenses or permits.

Whenever the Director of Industry Operations has reason to believe that any holder of a license or permit has willfully violated any provision of 18 U.S.C. chapter 40 or 27 CFR part 555 or has become ineligible to continue operations authorized under the license or permit, the Director of Industry Operations shall issue a notice for the revocation of such license or permit, as the case may be.

§ 771.43 Grounds for denial of applications for licenses or permits.

If, upon examination of any application (including a renewal application) for a license or permit, the Director of Industry Operations has reason to believe that the applicant is not entitled to such license or permit, the Director of Industry Operations shall issue a denial of the application. An applicant is not eligible for a license or permit if he fails to meet the requirements of 18 U.S.C. 843(b) and § 555.49 of this chapter.

Subpart F—Hearing Procedure

Notices

§ 771.55 Content.

(a) Notices for the revocation or denial of renewal of a license or permit shall be promptly issued by the Director of Industry Operations and shall set forth:

(1) The sections of law and regulations relied upon for authority and jurisdiction;

(2) The specific grounds upon which the revocation or denial is based, *i.e.,* the matters of fact constituting the violations specified, dates, places, and sections of law and regulations violated;

(3) In the case of a revocation, the date on which the action is effective; and

(4) That the licensee or permittee has 15 days from receipt of the notice within which to request a hearing before an administrative law judge.

(b) Notices for the denial of an initial application for a license or permit shall set forth:

(1) The sections of law and regulations relied upon for authority and jurisdiction;

(2) The specific grounds upon which the denial is based, *i.e.,* the matters of fact and law relied upon for the disapproval of the application; and

(3) That the application will be disapproved unless a hearing is requested within 15 days from receipt of the notice.

§ 771.56 Forms.

Notices shall be issued on the following forms:

(a) ATF Form 5400.9, ''Order After Denial or Revocation Hearing,'' for all revocations or denials of renewal of licenses or permits pursuant to 18 U.S.C. chapter 40 after a hearing has been held and a Recommended Decision has been issued by the administrative law judge;

(b) Form 5400.10, ''Notice of Revocation for License or Permit,'' for all revocations of licenses or permits pursuant to 18 U.S.C. chapter 40, except as provided for in paragraph (a) of this section;

(c) Form 5400.11, ''Notice of Denial of Application for License or Permit,'' for the denial of renewal or original applications for licenses or permits pursuant to 18 U.S.C. chapter 40, except as provided for in paragraph (a) of this section;

(d) Form 5400.12, ''Notice of Contemplated Denial or Revocation of License or Permit,'' for the contemplated revocation or denial of renewal application of licenses or permits pursuant to 18 U.S.C. chapter 40; or

(e) Such other forms as the Director may prescribe.

§ 771.57 Execution and disposition.

A signed original of the applicable form shall be served on the licensee or permittee. If a hearing is requested, a copy shall be sent to the administrative law judge designated to conduct the hearing. Any remaining copies shall be retained for the office of the Director of Industry Operations.

§ 771.58 Designated place of hearing.

The designated place of hearing shall be determined by the administrative law judge, taking into consideration the convenience and necessity of the parties and their representatives.

Request for Hearing

§ 771.59 Initial application proceedings.

(a) If the applicant for an initial license or permit desires a hearing, he shall file a request in writing with the Director of Industry Operations within 15 days after receipt of notice of the disapproval, in whole or in part, of the application.

(b) On receipt of the request, the Director of Industry Operations shall forward a copy of the request, together with a copy of the notice, to the Office of Chief Counsel for the assignment of an administrative law judge.

(c) After the Office of Chief Counsel notifies the Director of Industry Operations or the Attorney for the Government of the assignment of an administrative law judge, the Director of Industry Operations shall notify the licensee or permittee of the assignment, if the administrative law judge has not already done so.

§ 771.60 Revocation or denial of renewal proceedings.

(a) If the licensee or permittee desires a hearing, he shall file a request, in writing, with the Director of Industry Operations within 15 days after receipt of the notice or within such time as the Director of Industry Operations may allow.

(b) Where a licensee or permittee requests a hearing, the Director of Industry Operations shall forward a copy of the request, together with a copy of the notice, to the Office of Chief Counsel for the assignment of an administrative law judge.

(c) After the Office of Chief Counsel notifies the Director of Industry Operations or the Attorney for the Government of the assignment of an administrative law judge, the Director of Industry Operations shall notify the licensee or permittee of the assignment, if the administrative law judge has not already done so.

(d) In the case of a revocation, a licensee or permittee may include a request for a stay of the effective date of revocation with the request for a hearing.

(e) On receipt of a request for a stay of the effective date of a revocation, the Director of Industry Operations shall timely advise the licensee or permittee whether the stay is granted.

(1) If the stay is granted, the matter shall be referred to an administrative law judge pursuant to paragraph (b) of this section.

(2) If the stay is denied, the licensee or permittee may request an immediate hearing. In this event, the Director of Industry Operations shall immediately refer the matter to the Office of Chief Counsel for the assignment of an administrative law judge, who shall set a date and place for hearing, which date shall be no later than 10 days from the date the licensee or permittee requested the immediate hearing.

§ 771.61 Notice of hearing.

Once a request for a hearing has been referred to the administrative law judge, the administrative law judge shall set a time and place for a hearing and shall serve notice thereof upon the parties at least 10 days in advance of the hearing date.

Non-Request for Hearing

§ 771.62 Initial application.

In the case of an initial application, if the applicant does not request a hearing within 15 days, or within such additional time as the Director of Industry Operations may in his discretion allow, the Director of Industry Operations will return a copy of the application, marked ''Disapproved,'' to the applicant, accompanied by a brief statement including the findings upon which the denial is based.

§ 771.63 Revocation or denial of renewal.

In the case of a revocation or denial of renewal of an application, if the licensee or permittee does not request a hearing within 15 days, or within such additional time as the Director of Industry Operations may in his discretion allow, the Director of Industry Operations shall make the initial decision in the case pursuant to § 771.78(b).

Responses to Notices

§ 771.64 Answers.

(a) Where the licensee or permittee requests a hearing in accordance with §§ 771.59 and 771.60, a written response to the relevant notice may be filed with the administrative law judge and served on the Director of Industry Operations within 15 days after the licensee or permittee receives service of the designation of the administrative law judge.

(b) Where no hearing is requested, the licensee or permittee may file a written answer to the relevant notice with the Director of Industry Operations within 15 days after service of the notice.

(c) An answer shall contain a concise statement of the facts that constitute the grounds for defense. A hearing, if requested, may be limited to the issues contained in the notice and the answer. The administrative law judge or Director of Industry Operations, as the case may be, may, as a matter of discretion, waive any requirement of this section.

(d) Answers need not be filed in initial application proceedings.

§ 771.65 Responses admitting facts.

If the licensee or permittee desires to waive the hearing on the allegations of fact set forth in the notice and does not contest the facts, the answer may consist of a statement that the licensee or permittee admits all material allegations of fact charged in the notice to be true. The Director of Industry Operations shall base the decision on the notice and such answer, although such an answer shall not affect the licensee's or permittee's right to submit proposed findings of fact and conclusions of law or right to appeal.

§ 771.66 Initial conferences.

(a) In any proceeding, the administrative law judge, upon his own motion or upon the motion of one of the parties or their qualified representatives, may in the administrative law judge's discretion direct the parties or their qualified representatives to appear at a specified time and place for a conference to consider:

(1) Simplification of the issues;

(2) The necessity of amendments to the pleadings;

(3) The possibility of obtaining stipulations, admissions of facts, and documents;

(4) The possibility of both parties exchanging information or scheduling discovery;

(5) A date on which both parties will simultaneously submit lists of proposed hearing exhibits;

(6) Limiting the number of expert witnesses;

(7) Identifying and, if practicable, scheduling all witnesses to be called; however, there is no requirement in these proceedings for the parties to submit pre-hearing statements or statements of proposed testimony by witnesses; and

(8) Such other matters as may aid in the disposition of the proceeding.

(b) As soon as practicable after such conference, the administrative law judge shall issue an order that recites the action taken, the amendments allowed to the pleadings, and the agreements made by the parties or their qualified representatives as to any of the matters considered. The order shall also limit the issues for hearing to those not disposed of by admission or agreement. Such order shall control the subsequent course of the proceedings, unless modified for good cause by a subsequent order. After discovery is complete, the order may be amended or supplemented if necessary.

Failure To Appear

§ 771.67 Initial applications.

Where the applicant on an initial application for a license or permit has requested a hearing and does not appear at the appointed time and place, evidence has not been offered to refute or explain the grounds upon which disapproval of the application is contemplated, and no good cause has been shown for the failure to appear, the applicant shall be considered to have waived the hearing. When such waiver occurs, a default judgment against the applicant will be entered and the

administrative law judge shall recommend disapproval of said application.

§ 771.68 Revocation or denial of renewal.

If, on the date set for a hearing concerning the revocation or denial of renewal of a license or permit, the licensee or permittee does not appear, no evidence has been offered, and no good cause has been shown for the failure to appear, the Attorney for the Government will proceed ex parte and offer for the record sufficient evidence to make a *prima facie* case. At such hearing, documents, statements, and affidavits may be submitted in lieu of testimony of witnesses.

Waiver of Hearing

§ 771.69 Withdrawal of request for hearing.

At any time prior to the assignment of an administrative law judge, the licensee or permittee may, by filing written notice with the Director of Industry Operations, withdraw his request for a hearing. If such a notice is filed after assignment to the administrative law judge and prior to issuance of his recommended decision the Director of Industry Operations shall move the administrative law judge to dismiss the proceedings as moot. If such a notice is filed either after issuance of a notice of denial or notice of revocation and before assignment of the administrative law judge, or after issuance by the administrative law judge of his recommended decision and prior to the Director of Industry Operations' order disapproving the application or denying the renewal of or revoking the license or permit, the Director of Industry Operations shall, by order, dismiss the proceeding.

§ 771.70 Adjudication based upon written submissions.

The licensee or permittee may waive the hearing before the administrative law judge and stipulate that the matter will be adjudicated by the Director of Industry Operations based upon written submissions. Written submissions may include stipulations of law or facts, proposed findings of fact and conclusions of law, briefs, or any other documentary material. The pleadings, together with the written submissions of both the licensee or permittee and the attorney for the Government, shall constitute the record on which the initial decision shall be based. The election to contest the denial or revocation without a hearing under this section does not affect the licensee's or permittee's right to appeal to the Director pursuant to § 555.79 of this chapter or to the United States Court of Appeals for the circuit in which the licensee or permittee resides or has his principle place of business pursuant to § 555.80 of this chapter.

Surrender of License or Permit

§ 771.71 Before citation.

If a licensee or permittee surrenders the license or permit before the notice of revocation or denial of renewal, the Director of Industry Operations may accept the surrender. But if the evidence, in the opinion of the Director of Industry Operations, warrants issuance of a notice for revocation or denial of renewal, the surrender shall be refused and the Director of Industry Operations shall issue the notice.

§ 771.72 After citation.

If a licensee or permittee surrenders the license or permit after notice, but prior to the referral to an administrative law judge and prior to an initial decision, the Director of Industry Operations may accept the surrender of the license or permit and dismiss the proceeding as moot. If a licensee or permittee surrenders the license or permit after notice and after the referral to the administrative law judge, but prior to the issuance of a recommended decision, the Director of Industry Operations may accept the surrender of the license or permit and shall move the administrative law judge to dismiss the proceedings as moot. In either case, if, in the opinion of the Director of Industry Operations, the evidence is such as to warrant revocation or denial of renewal, as the case may be, the surrender of the license or permit shall be refused, and the proceeding shall continue.

Motions

§ 771.73 General.

All motions shall be made and addressed to the administrative law judge before whom the proceeding is pending, and copies of all motion papers shall be served upon the other party or parties. The administrative law judge may dispose of any motion without oral argument, but he may, if he so desires, set it down for hearing and request argument. The administrative law judge may dispose of such motion prior to the hearing on the merits or he may postpone the disposition until the hearing on the merits. No appeal may be taken from any ruling on a motion until the whole record is certified for review. Examples of typical motions may be found in the Rules of Civil Procedure referred to in § 771.2.

§ 771.74 Prior to hearing.

All motions that should be made prior to the hearing, such as a motion directed to the sufficiency of the pleadings or of preliminary orders, shall be filed in writing with the Director of Industry Operations or the administrative law judge if the matter has been referred to him, and shall briefly state the order or relief applied for and the grounds for such motion.

§ 771.75 At hearing.

Motions at the hearing may be made in writing to the administrative law judge or stated orally on the record.

Hearing

§ 771.76 General.

If a hearing is requested, it shall be held at the time and place stated in the notice of hearing unless otherwise ordered by the administrative law judge.

§ 771.77 Initial applications.

(a) The administrative law judge who presides at the hearing on initial applications shall recommend a decision to the Director of Industry Operations. The administrative law judge shall certify the complete record of the proceedings before him and shall immediately forward the complete certified record to the Director of Industry Operations. The administrative law judge shall also send one copy of his recommended decision to the applicant or the applicant's representative, one copy to the Attorney for the Government, and one copy to the Director of Industry Operations, who shall make the initial decision as provided in § 771.107. The applicant may be directed by the Director of Industry Operations to produce such records as may be deemed necessary for examination. All hearings on applications shall be open to the public subject to such restrictions and limitations as may be consistent with orderly procedure.

(b) If no hearing is requested, the return of the application marked ''Disapproved'' is the Director of Industry Operations' initial decision.

§ 771.78 Revocation or denial of renewal.

(a) The administrative law judge who presides at the hearing in proceedings for the revocation or denial of renewal of licenses or permits shall make a recommended decision to the Director of Industry Operations. The administrative law judge shall certify the complete record of the proceedings before him and shall immediately forward the complete certified record to the Director of Industry Operations. The administrative law judge shall also send

one copy of his recommended decision to the licensee or permittee or the licensee's or permittee's representative, one copy to the Attorney for the Government, and one copy to the Director of Industry Operations, who shall make the initial decision as provided in § 771.109.

(b) If no hearing is requested, the Director of Industry Operations shall make the initial decision.

Burden of Proof

§ 771.79 Initial applications.

In hearings on the initial denial of applications, the burden of proof is on the Government to show by a preponderance of the evidence that the Director of Industry Operations had reason to believe that the applicant is not entitled to a permit or license.

§ 771.80 Revocation or denial of renewal.

In hearings on the revocation or denial of renewal of a license or permit, the burden of proof is on the Government to show that the Director of Industry Operations had reason to believe that the licensee or permittee is not entitled to a permit or license, as may be the case. The Government must meet this proof by a preponderance of the evidence.

General

§ 771.81 Stipulations at hearing.

If there has been no initial conference under § 771.66, the administrative law judge may at the beginning of the hearing require that the parties attempt to arrive at such stipulations as will eliminate the necessity of taking evidence with respect to allegations of fact about which there is no substantial dispute. The administrative law judge should take similar action, where appropriate, throughout the hearing and should call and conduct any conferences that he deems advisable with a view to the simplification, clarification, and disposition of any of the issues involved in the hearing.

§ 771.82 Evidence.

The Federal Rules of Evidence are not binding on these proceedings. However, any relevant evidence that would be admissible under the rules of evidence governing civil proceedings in matters not involving trial by jury in the Courts of the United States shall be admissible. The administrative law judge may relax such rules in any hearing when in his judgment such relaxation would not impair the rights of either party and would more speedily conclude the hearing or would better serve the ends of justice. However, the administrative law judge shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. Every party shall have the right to present his case or defense by oral or documentary evidence, depositions, or duly authenticated copies of records and documents; to submit rebuttal evidence; and to conduct such reasonable cross-examination as may be required for a full and true disclosure of the facts.

(a) *Witnesses.* The administrative law judge shall have the right in his discretion to limit the number of witnesses whose testimony may be merely cumulative and shall, as a matter of policy, not only exclude irrelevant, immaterial, or unduly repetitious evidence but shall also limit the cross-examination of witnesses to that required for a full and true disclosure of the facts so as not to unnecessarily prolong the hearing and unduly burden the record. Opinion or expert testimony shall be admitted when the administrative law judge is satisfied that the witness is properly qualified as defined by Federal Rules of Evidence 701 or 702.

(b) *Documentary evidence.* Material and relevant evidence shall not be excluded because it is not the best evidence unless its authenticity is challenged, in which case reasonable time shall be given to establish its authenticity. When only portions of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such materials will be offered, to the administrative law judge and to the other parties. Only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document should be made available for examination and for use by opposing counsel for purposes of cross-examination. Compilations, charts, summaries of data, and photocopies of documents may be admitted in evidence if the proceedings will thereby be expedited, and if the material upon which they are based is available for examination by the parties. Objections to the evidence shall be in short form, stating the grounds relied upon. The transcript shall not include argument or debate on objections, except as ordered by the administrative law judge, but shall include the rulings thereon. Where official notice is taken of a material fact not appearing in the evidence in the record, any party shall, on timely request, be afforded an opportunity to controvert such fact.

(c) *Hearsay.* Probative, material, and reliable hearsay evidence is admissible in proceedings under this subpart.

§ 771.83 Closing of hearings; arguments, briefs, and proposed findings.

Before closing a hearing, the administrative law judge shall inquire of each party whether the party has any further evidence to offer, which inquiry and the response thereto shall be shown in the record. The administrative law judge may hear arguments of counsel and the administrative law judge may limit the time of such arguments at his discretion. The administrative law judge may, in his discretion, allow briefs to be filed on behalf of either party but shall closely limit the time within which the briefs for both parties shall be filed, so as to avoid unreasonable delay. The administrative law judge shall also ascertain whether the parties desire to submit proposed findings and conclusions, together with supporting reasons, and, if so, a period of not more than 15 days (unless extended by the administrative law judge)—after the close of the hearing or receipt of a copy of the record, if one is requested—will be allowed for such purpose.

§ 771.84 Reopening of the hearing.

The Director, the Director of Industry Operations, or the administrative law judge, as the case may be, may, as to all matters pending before him, in his discretion reopen a hearing—

(a) In case of default under § 771.67 or § 771.68 where the applicant, licensee, or permittee failed to request a hearing or to appear after one was set, upon petition setting forth reasonable grounds for such failure; and

(b) Where any party desires leave to adduce additional evidence upon petition summarizing such evidence, establishing its materiality, and stating reasonable grounds why such party with due diligence was unable to produce such evidence at the hearing.

Record of Testimony

§ 771.85 Stenographic record.

A stenographic record shall be made of the testimony and proceedings, including stipulations, admissions of fact, and arguments of counsel in all proceedings. A transcript of the evidence and proceedings at the hearing shall be made in all cases.

§ 771.86 Oath of reporter.

The reporter making the stenographic record shall subscribe an oath before the administrative law judge, to be filed in the record of the case, that he will truly and correctly report the oral testimony and proceedings at such hearing and

accurately transcribe the same to the best of his ability.

Subpart G—Administrative Law Judges

§ 771.95 Responsibilities of administrative law judges.

In hearings under this subpart, administrative law judges must apply all governing agency rulings and governing agency precedent. They shall be responsible for the conduct of hearings and shall render their decisions as soon as is reasonably possible after the hearing is closed. Administrative law judges shall also be responsible for the preparation, certification, and forwarding of the complete record of proceedings and the administrative work relating thereto and, by arrangement with Directors of Industry Operations and representatives of the Office of Chief Counsel shall have access to facilities and temporary use of personnel at such times and places as are needed in the prompt dispatch of official business.

§ 771.96 Disqualification.

An administrative law judge shall, at any time, withdraw from any proceeding if he deems himself disqualified. Upon the filing in good faith by the applicant, licensee, permittee, or Attorney for the Government of a timely and sufficient affidavit of facts showing personal bias or otherwise warranting the disqualification of any administrative law judge, if the administrative law judge fails to disqualify himself, the Director shall upon appeal, as provided in § 771.120, determine the matter as a part of the record and decision in the proceeding. If the Director decides the administrative law judge should have deemed himself disqualified, the Director will remand the record for hearing de novo before another administrative law judge. If the Director should decide against the disqualification of the administrative law judge, the proceeding will be reviewed on its merits by the original administrative law judge. The burden is upon the party seeking disqualification to set forth evidence sufficient to overcome the presumption of the administrative law judge's honesty and integrity.

§ 771.97 Powers.

Administrative law judges shall have authority to:

(a) Administer oaths and affirmations;

(b) Issue subpoenas as authorized by law;

(c) Rule upon offers of proof and receive relevant evidence;

(d) Take or cause depositions to be taken whenever the ends of justice would be served thereby;

(e) Regulate the course of the hearing;

(f) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(g) Require the attendance at such conferences of at least one representative of each party who has the authority to negotiate concerning resolution of issues in controversy;

(h) Dispose of procedural requests or similar matters;

(i) Render recommended decisions in proceedings on applications for licenses and permits and on revocation or denial of renewal of licenses or permits;

(j) Call, examine, and cross-examine witnesses, including hostile or adverse witnesses, when the administrative law judge deems such action to be necessary to a just disposition of the case, and introduce into the record documentary or other evidence; and

(k) Take any other action authorized by rule of the Bureau of Alcohol, Tobacco, Firearms, and Explosives consistent with the Administrative Procedure Act. *See* 5 U.S.C. 556(c) and 18 U.S.C. 843.

§ 771.98 Separation of functions.

Administrative law judges shall perform no functions inconsistent with their duties and responsibilities. The Director may assign administrative law judges duties not inconsistent with the performance of their functions as administrative law judges. Except to the extent required for the disposition of ex parte matters as required by law, no administrative law judge shall consult any person or party as to any fact in issue unless there has been notice and opportunity for all parties to participate. The functions of the administrative law judge shall be entirely separated from the general investigative functions of the agency. No officer, employee, or agent engaged in the performance of investigative or prosecuting functions in any proceeding shall, in that proceeding or a factually related proceeding, participate or advise in the administrative law judge's or Director's decision, or in the agency review on appeal, except as a witness or counsel in the proceedings. The administrative law judge may not informally obtain advice or opinions from the parties or their counsel, or from any officer or employee of the ATF, as to the facts or the weight or interpretation to be given to the evidence. The administrative law judge may, however, informally obtain advice on matters of law or procedure in a proceeding from officers or employees who were not engaged in the performance of investigative or prosecuting functions in that proceeding or a factually related proceeding. The administrative law judge may, at any time, consult with and obtain instructions from the Director on questions of law and policy. Furthermore, it is not a violation of the separation of functions for the administrative law judge to participate in the questioning of witnesses, where the questioning is for clarification or to move the proceedings along, and where the questioning is not so extensive as to place the administrative law judge in the position of a prosecuting officer.

§ 771.99 Conduct of hearing.

The administrative law judge is charged with the duty of conducting a fair and impartial hearing and of maintaining order in form and manner consistent with the dignity of a court proceeding. In the event that counsel or any person or witness in any proceeding shall refuse to obey the orders of the administrative law judge, or be guilty of disorderly or contemptuous language or conduct in connection with any hearing, the administrative law judge may, for good cause stated in the record, suspend the hearing, and, in the case of disorderly or contemptuous language or conduct by an attorney, report the matter to the Department of Justice, Office of Professional Responsibility. *See* 28 CFR 0.39a(a)(9). The refusal of a witness to answer any question that has been ruled to be proper shall be considered by the administrative law judge in determining the weight to be given all the testimony of that witness.

§ 771.100 Unavailability of administrative law judge.

In the event that the administrative law judge designated to conduct a hearing becomes unavailable before the filing of his findings and recommended decision, the Director may assign the case to another administrative law judge for the continuance of the proceeding, in accordance with the regulations in this part in the same manner as if he had been designated administrative law judge at the commencement of the proceeding.

Subpart H—Decisions

§ 771.105 Administrative law judge's findings and recommended decision.

Within a reasonable time after the conclusion of the hearing, and as expeditiously as possible, the administrative law judge shall render his recommended decision. All decisions shall become a part of the record and, if proposed findings and conclusions have been filed, shall show

the administrative law judge's ruling upon each of such proposed findings and conclusions. Decisions shall consist of:

(a) A brief statement of the issues of fact involved in the proceeding;

(b) The administrative law judge's findings and conclusions, as well as the reasons or basis therefor with record references, upon all the material issues of fact, law, or discretion presented on the record (including, when appropriate, comment as to the credibility and demeanor of the witnesses); and

(c) The administrative law judge's recommended determination as to the revocation or denial at issue.

§ 771.106 Certification and transmittal of record and decision.

After reaching his decision, the administrative law judge shall certify the complete record of the proceeding before him and shall immediately forward the complete certified record together with one copy of the administrative law judge's recommended decision to the Director of Industry Operations for initial decision, one copy of the recommended decision to the applicant or the applicant's representative, and one copy of the recommended decision to the Attorney for the Government.

Action by Director of Industry Operations

§ 771.107 Initial application proceedings.

(a) *Accepting the recommended decision.* If the Director of Industry Operations, after consideration of the record of the hearing and of any proposed findings, conclusions, or exceptions filed with him by the applicant, accepts the recommended decision of the administrative law judge, the Director of Industry Operations shall by order approve or disapprove of the application in accordance with the recommended decision. If the Director of Industry Operations approves the application, he shall briefly state for the record his reasons therefor. However, if the Director of Industry Operations disapproves of the applications, he shall serve a copy of the administrative law judge's recommended decision on the applicant, informing the applicant of the Director of Industry Operations' contemplated action and affording the applicant not more than 10 days in which to submit proposed findings and conclusions or exceptions to the recommended decision with reasons in support thereof.

(b) *Rejecting the recommended decision.* If, after such consideration referenced in paragraph (a) of this section, the Director of Industry Operations rejects the recommended decision of the administrative law judge, in whole or in part, the Director of Industry Operations shall by order make such findings and conclusions as in his opinion are warranted by the law and facts in the record. Any decision of the Director of Industry Operations ordering the disapproval of an application for a permit shall state the findings and conclusions upon which it is based, including his ruling upon each proposed finding, conclusion, and exception to the administrative law judge's recommended decision, together with a statement of the administrative law judge's findings, conclusions, and reasons or basis therefor, upon all material issues of fact, law, or discretion presented on the record. A signed original of the decision of the Director of Industry Operations shall be served upon the applicant and the original copy containing a certificate of service shall be placed in the official record of the proceeding.

§ 771.108 Director of Industry Operations' decision.

When the Director of Industry Operations issues an initial decision in accordance with § 771.77 or § 771.107 the decision shall become a part of the record. The decision shall consist of:

(a) A brief statement of the issues involved in the proceedings;

(b) The Director of Industry Operations' findings and conclusions, as well as the reasons therefor; and

(c) The Director of Industry Operations' determination on the record.

§ 771.109 Revocation or denial of renewal proceedings.

(a) *Accepting the recommended decision.* After consideration of the complete certified record of the hearing, if the Director of Industry Operations agrees with the recommended decision of the administrative law judge, the Director of Industry Operations shall enter an order revoking or denying the renewal of the license or permit or dismissing the proceedings in accordance with the administrative law judge's recommended decision.

(b) *Rejecting the recommended decision.* After consideration of the complete certified record of the hearing, if the Director of Industry Operations disagrees with the recommended decision of the administrative law judge, he may file a petition with the Director for review of the recommended decision, as provided in § 771.120. If the Director of Industry Operations files such a petition, he shall withhold issuance of the order pending the decision of the Director, upon receipt of which he shall issue the order in accordance with the Director's decision. A signed original of the order of the Director of Industry Operations shall be served upon the licensee or permittee or his representative and the original copy containing a certificate of service shall be placed in the official record of the proceeding.

(c) *Decisions pursuant to § 771.78(b).* In a case where the initial decision is made by the Director of Industry Operations in accordance with § 771.78(b), the Director of Industry Operations shall also issue an order revoking or denying the renewal of the license or permit, or dismissing the proceedings in accordance with his initial decision. A signed original of the decision and order of the Director of Industry Operations shall be served upon the licensee or permittee or his representative and the original copy placed in the official record of the proceeding.

§ 771.110 Revocation or denial of renewal.

Pursuant to § 771.109(a), when the Director of Industry Operations issues an order revoking or denying the renewal of a license or permit, he shall furnish a copy of the order and of the recommended decision on which it is based to the Director. Should such order be subsequently set aside on review by the courts, the Director of Industry Operations will so advise the Director.

§ 771.111 Proceedings involving violations not within the division of issuance of license or permit.

In the event violations occurred at a place not within the field division where the licensee or permittee is located, the Director of Industry Operations of the field division where the licensee or permittee is located will take jurisdiction over any proceeding and will take appropriate action in accordance with this subpart, including issuing the relevant notice.

Subpart I—Review

§ 771.120 Appeal on petition to the Director.

(a) An appeal to the Director may be made by the applicant, licensee, or permittee, or by the Director of Industry Operations (DIO). For the applicant, licensee, or permittee, such appeal shall be made by filing a petition for review on appeal with the Director within 15 days of the service of the adverse initial decision by the Director of Industry Operations. For the Director of Industry Operations, such appeal shall be taken

by filing a petition for review on appeal with the Director within 15 days of the issuance of the administrative law judge's decision recommending against revocation or denial of renewal. The petitioning applicant, licensee, or permittee must submit arguments showing that the Director of Industry Operations' initial decision, and if applicable the underlying administrative law judge's recommended decision, was without reasonable warrant in fact or contrary to law and regulations. The petitioning DIO must submit arguments showing the administrative law judge's recommended decision was without reasonable warrant in fact or contrary to law and regulations. Nothing in this part shall limit the authority of the Director to review the administrative law judge's decision exercising all the powers that he would have in making the recommended decision.

(b) A copy of the petition shall be filed with the Director of Industry Operations or served on the applicant, licensee, or permittee, as the case may be. In the event of an appeal, the Director of Industry Operations shall immediately certify and forward the complete original record, by certified mail, to the Director, for his consideration and review.

§ 771.121 Review by Director.

(a) *Modification or reversal.* On appeal, the Director shall afford a reasonable opportunity for the submission of proposed findings, conclusions, or exceptions with reasons in support thereof and an opportunity for oral argument. The Director may alter or modify any finding of the administrative law judge (or of the Director of Industry Operations as the case may be) and may affirm, reverse, or modify the recommended decision of the administrative law judge, or the initial decision of the Director of Industry Operations, or may remand the case for further hearing, but shall not consider evidence that is not a part of the record.

(b) *Affirmance.* Except in the case of a remand, when, on appeal, the Director affirms the initial decision of the Director of Industry Operations or the recommended decision of the administrative law judge, as the case may be, such decision shall be the agency's final decision.

(c) *Recusal.* Appeals and petitions for review shall not be decided by the Director in any proceeding in which the Director has engaged in an investigation or prosecution and in such event the Director shall so state his disqualification in writing and refer the record to the Deputy Director for appropriate action. The Deputy Director may designate an Assistant Director or one of the Deputy Director's principal aides to consider any proceeding instead of the Director. The original copy of the decision on review shall be placed in the official record of the proceeding, a signed duplicate original shall be served upon the applicant, licensee, or permittee, and a copy shall be transmitted to the Director of Industry Operations.

§ 771.122 Denial of renewal or revocation.

If the Director orders the denial of an application, a copy of the application marked ''Disapproved'' will be returned to the applicant by the Director of Industry Operations. If the Director orders a revocation of a license of permit, any stay of revocation will be withdrawn and the revocation will become effective upon the order of the Director of Industry Operations. After the issuance of a denial of a renewal application or a revocation, and pending the final determination of a timely appeal, the licensee or permittee may continue operations, if at all, pursuant to § 555.83 of this chapter.

§ 771.123 Court review.

(a) If an applicant, licensee, or permittee files an appeal in the United States Court of Appeals for the circuit in which he resides or has his principle place of business, within 60 days after the receipt of the Director's decision, the Director, upon notification that an appeal has been taken, shall prepare the record for submission to the court in accordance with applicable court rules.

(b) If an applicant, licensee, or permittee does not seek review with the Director, but instead seeks review within 60 days after the receipt of the initial decision of the Director of Industry Operations pursuant to § 771.109, the Director of Industry Operations, upon notification that an appeal has been taken, shall prepare the record for submission to the court in accordance with applicable court rules. The Director of Industry Operations shall notify the Director if such an appeal is taken.

(c) The Director, or the Director of Industry Operations, as the case may be, shall certify the correctness of the transcript of the record, forward one copy to the attorney for the Government in the review of the case, and file the original record of the proceedings with the original certificate in the appropriate United States Court of Appeals.

Subpart J—Miscellaneous

§ 771.124 Depositions.

The administrative law judge may take or order the taking of depositions by either party to the proceeding at such time and place as the administrative law judge may designate before a person having the power to administer oaths, upon application therefor and notice to the parties to the action. The testimony shall be reduced to writing by the person taking the deposition, or a person under his direction, and the deposition shall be subscribed by the deponent unless subscribing thereof is waived in writing by the parties.

§ 771.125 Witnesses and fees.

Witnesses summoned before the administrative law judge may be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance the witnesses appear and the person taking the deposition shall be paid by the party at whose instance the deposition is taken.

§ 771.126 Discovery.

The discovery provisions of the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure are not controlling with respect to agency proceedings under this part. However, fundamental fairness requires a party be given the opportunity to know what evidence is offered and a chance to rebut such evidence. Either party may petition the administrative law judge for non-burdensome discovery if the party can demonstrate that the interests of justice require disclosure of these materials.

§ 771.127 Privileges.

The Administrative Procedure Act, 5 U.S.C. 559, provides that, except as otherwise required by law, privileges relating to procedure or evidence apply equally to agencies and persons. Therefore, an agency may rely on judicially-approved privileges to resist production of its files where appropriate.

Record

§ 771.135 What constitutes record.

The transcript of testimony, pleadings, exhibits, all papers and requests filed in the proceeding, and all findings, decisions, and orders, shall constitute the exclusive record. Where the decision rests on official notice of

material fact not appearing in the record, the administrative law judge shall so state in his findings and any party shall, on timely request, be afforded an opportunity to show facts to the contrary.

§ 771.136 Availability.

A copy of the record shall be available for inspection or copying by the parties to the proceedings during business hours at the office of the administrative law judge or the Director of Industry Operations or, pending administrative review, at the Office of the Director.

Dated: November 5, 2019.

William P. Barr,

Attorney General.

[FR Doc. 2019–24570 Filed 11–22–19; 8:45 am]

BILLING CODE 4410–FY–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2700

Simplified Proceedings

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Federal Mine Safety and Health Review Commission (the ''Commission'') is an independent adjudicatory agency that provides hearings and appellate review of cases arising under the Federal Mine Safety and Health Act of 1977. On October 11, 2019, the Commission published in the **Federal Register** a direct final rule which would withdraw the Commission's procedures for simplified proceedings. The Commission received one comment on the rule and is confirming the withdrawal of its simplified proceeding rules.

DATES: The effective date of November 25, 2019, for the direct final rule published October 11, 2019 (84 FR 54782), is confirmed.

FOR FURTHER INFORMATION CONTACT: Sarah Stewart, Deputy General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, at (202) 434–9935.

SUPPLEMENTARY INFORMATION:

A. Background

In 2010, the Commission published in the **Federal Register** a final rule to simplify the procedures for handling certain civil penalty proceedings. The Commission evaluated the procedures in a pilot program extending almost nine years.

Based upon its evaluation of the simplified proceedings pilot program, the Commission determined that a special set of procedures for its simplest cases is not necessary at the present time. The Commission's overall caseload has decreased since the simplified proceedings rule was promulgated. Moreover, parties may request on a case-by-case basis that the Commission adapt the Commission's conventional procedures as necessary to expedite or simplify the processing of a case.

On October 11, 2019 (84 FR 54782), the Commission published a direct final rule withdrawing the simplified proceedings rule and permitting comment. The Commission received one comment from the Solicitor of Labor, on behalf of the U.S. Department of Labor. The Solicitor made no specific comments on the procedural rules themselves. Rather, the Solicitor suggested that the Commission should solicit more comments and data on the manner to improve the proceedings, including considering in part the simplified proceeding rules of the Occupational Safety and Health Review Commission (''OSHRC'').

The Commission already considered OSHRC's simplified proceeding rules in its determination that the Commission's simplified rules should be withdrawn. Having considered the comments received, the Commission has determined that subpart J should be withdrawn at the present time. If practice proves the necessity for different rules applicable to the Commission's simplest cases, the Commission will publish a proposal of such rules at that time.

B. Notice and Public Procedure

1. Executive Orders

The Commission is an independent regulatory agency under section 3(b) of Executive Order (''E.O.'') 12866 (Sept. 30, 1993), 58 FR 51735 (Oct. 4, 1993); E.O. 13563 (Jan. 18, 2011), 76 FR 3821 (Jan. 21, 2011); E.O. 13771 (Jan. 30, 2017), 82 FR 9339 (Feb. 3, 2017); E.O. 13777 (Feb. 24, 2017), 82 FR 12285 (Mar. 1, 2017); and E.O. 13132 (Aug. 4, 1999), 64 FR 43255 (Aug. 10, 1999).

The Commission has determined that this rulemaking does not have ''takings implications'' under E.O. 12630 (Mar. 15, 1988), 53 FR 8859 (Mar. 18, 1988).

The Commission has determined that these regulations meet all applicable standards set forth in E.O. 12988 (Feb. 5, 1996), 61 FR 4729 (Feb. 7, 1996).

2. Statutory Requirements

The Commission has determined that this rulemaking is exempt from the requirements of the Regulatory Flexibility Act (''RFA'') (5 U.S.C. 601 *et seq.*), because the rule would not have a significant economic impact on a substantial number of small entities.

The Commission has determined that this rule is not a ''major rule'' under the Small Business Regulatory Enforcement Fairness Act (''SBREFA'') (5 U.S.C. 804(2)).

The Commission has determined that the Paperwork Reduction Act (''PRA'') (44 U.S.C. 3501 *et seq.*) does not apply because these rules do not contain any information collection requirements that require the approval of the OMB.

The Commission has determined that the Congressional Review Act (''CRA'') (5 U.S.C. 801 *et seq.*) does not apply because, pursuant to 5 U.S.C. 804(3)(C), these rules are rules of agency procedure or practice that do not substantially affect the rights or obligations of non-agency parties.

The Commission has determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment requiring an environmental assessment under the National Environmental Policy Act (''NEPA'') (42 U.S.C. 4321 *et seq.*).

The Commission is an independent regulatory agency, and as such, is not subject to the requirements of the Unfunded Mandates Reform Act (''UMRA'') (2 U.S.C. 1532 *et seq.*).

Dated: November 20, 2019.

Marco M. Rajkovich, Jr.,

Chairman, Federal Mine Safety and Health Review Commission.

[FR Doc. 2019–25503 Filed 11–22–19; 8:45 am]

BILLING CODE 6735–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2018–0627; FRL–10001–30]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances (18–1)

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 22 chemical substances which are the subject of premanufacture notices (PMNs). The chemical substances are subject to Orders issued by EPA under TSCA. This action requires persons who intend to manufacture (defined by

statute to include import) or process any of these 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 January 24, 2020. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (EST) on December 9, 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 December 26, 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. What action is the agency taking?

EPA is finalizing these SNURs under TSCA section 5(a)(2) for 22 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. EPA is not finalizing four proposed SNURs at 40 CFR 721.11150, 721.11163, 721.11164, and 721.11165 for the chemical substances P–14–627, P–17–200, P–17–204, and P–17–205, respectively, because the Agency is currently reviewing data submitted in support of a request to modify the underlying TSCA 5(e) Orders that forms the basis for the proposed SNURs.

In the **Federal Register** of October 3, 2018 (83 FR 49903) (FRL–9983–81), EPA proposed a SNUR for 26 chemical substances in 40 CFR part 721, subpart E. This comment period closed on November 2, 2018. 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 October 3, 2018 (83 FR 49806) (FRL–9983–82). This direct final SNUR was withdrawn on December 4, 2018 (83 FR 62463) (FRL–9986–74) due to adverse public comments related to SNURs identified in the document.

The record for the batch SNUR was established in the docket under docket ID number EPA–HQ–OPPT–2018–0627. That docket includes information considered by the Agency in developing the proposed and final rules, public comments submitted for the rule, and EPA's responses to public comments received on the proposed rule.

C. 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 II.

D. 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 section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA must either determine that the 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.

II. Significant New Use Determination

When the Agency issues an Order under TSCA section 5(e), TSCA 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.

III. Public Comments on Proposed Rule and EPA Responses

EPA received public comments from three identifying 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–2018–0627. In addition, EPA is not finalizing the proposed SNURs for the substances described in P–14–627, P–17–200, P–17–204, and P–17–205 (40 CFR 721.11150, 721.11163, 721.11164, and 721.11165, respectively) because the Agency is currently reviewing data submitted in support of a request to modify the underlying TSCA 5(e) Orders that form the basis for the proposed SNURs. EPA will finalize those proposed SNURs after the data has been reviewed and any changes to the Orders and/or SNUR have been considered and identified.

Furthermore, the Response to Comments describes comments and responses that resulted in changes to the SNURs for P–17–24 and P–17–25. The regulatory text of the SNURs at 40 CFR 721.11159 and 40 CFR 721.11160 have been revised to include that dust inhalation exposure is a significant new use and to specify a significant new use as commercial use when saleable goods or service could introduce the PMN substances into a consumer setting.

IV. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for 22 chemical substances in 40 CFR part 721, subpart E. In Unit IV. of the original direct final rule (83 FR 49806, October 3, 2018), 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 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 VII. discusses a procedure companies may use to ascertain whether a proposed use constitutes a significant new use.

These final rules include 22 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).

V. 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 of the October 3, 2018 direct final rule. 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.*

VI. 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 14 of the 22 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 October 3, 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 October 3, 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.

VII. 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 (see 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 (October 3, 2018; 83 FR 49806), the EPA 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.

VIII. 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.

IX. 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.*

X. 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–2018–0627.

XI. 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).

XII. 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: November 7, 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 §§ 721.11149, 721.11151 through 721.11162, and 721.11166 through 721.11172 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	
* * * * *	
721.11149	2070–0012
721.11151	2070–0012
721.11152	2070–0012
721.11153	2070–0012
721.11154	2070–0012
721.11155	2070–0012
721.11156	2070–0012
721.11157	2070–0012
721.11158	2070–0012
721.11159	2070–0012
721.11160	2070–0012
721.11161	2070–0012
721.11162	2070–0012
721.11166	2070–0012
721.11167	2070–0012
721.11168	2070–0012
721.11169	2070–0012
721.11170	2070–0012
721.11171	2070–0012
721.11172	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 §§ 721.11149 through 721.11172 to subpart E to read as follows:

Subpart E—Significant New Uses for Specific Chemical Substances

* * * * *

Sec.

721.11149 Carbon nanomaterial (generic).
721.11150 [Reserved]
721.11151 2-Butanone 1,1,1,3,4,4,4-heptafluoro-3-(trifluoromethyl)-.
721.11152 Propanenitrile, 2,3,3,3 tetrafluoro-2-(trifluoromethyl)-.
721.11153 Polymeric sulfide (generic).
721.11154 Quaternary ammonium salts (generic).
721.11155 Alkyl methacrylates, polymer with olefins (generic).
721.11156 Hexanedioic acid, 1,6-bis(3,5,5-trimethylhexyl) ester.
721.11157 Alkylaminium hydroxide (generic).
721.11158 Polyamine polyacid adducts (generic).
721.11159 Aromatic isocyanate, polymer with alkyloxirane polymer with oxirane ether with alkyldiol (2:l) and alkyloxirane polymer with oxirane ether with alkyltriol (3:l) (generic).
721.11160 Aromatic isocyanate polymer with alkyloxirane, alkyloxirane polymer with oxirane ether with alkanetriol and oxirane (generic).
721.11161 Oils, hedychium flavescens.
721.11162 Siloxanes and silicones, cetyl Me, di-Me, Me 2-(triethoxysilyl)ethyl.
721.11163–721.11165 [Reserved]
721.11166 1H-Benz[de] isoquinoline-1,3(2H)-dione-2-(alkyl)-(alkylamino) (generic).
721.11167 Siloxanes and Silicones, di-Me, hydrogen-terminated, reaction products with acrylic acid and 2-ethyl-2-[(2-propen-1-yloxyl)methyl]-1,3-propanediol, polymers with chlorotrimethylsilane-iso-Pr alc.-sodium silicate reaction products.
721.11168 2-Pentanone, 2,2′,2″-[O,O′,O″-(ethenylsilylidyne)trioxime].
721.11169 2-Pentanone, 2,2′,2″- [O,O′,Oz″-(methylsilylidyne)trioxime].
721.11170 Naphthalene trisulfonic acid sodium salt (generic).
721.11171 Polymer of aliphatic dicarboxylic acid and dicycloalkaneamine (generic).
721.11172 Hexanedioic acid, polymer with trifunctional polyol, 1,1′-methylenebis [isocyanatobenzene], and 2,2′-oxybis[ethanol] (generic).

* * * * *

§ 721.11149 Carbon nanomaterial (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as carbon nanomaterial (PMN P–10–366) 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 substance after they have been reacted (cured), incorporated or embedded into a polymer matrix that itself has been completely reacted (cured), embedded in a permanent solid polymer, metal, glass, or ceramic form, or completely embedded in an article as defined at 40 CFR 720.3(c).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i) and (ii), (a)(3) through (5) (respirators must provide a National Institute for Occupational Safety and Health certified air purifying, tight-fitting full-face respirator equipped with N–100, P–100, or R–100 filter with an Assigned Protection Factor of at least 50), (a)(6) (particulate (including solids or liquid droplets)), (when determining which persons are reasonable 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 exposures, where feasible), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k), (l), (q), and (y)(1) (when the substance is in liquid resin form). It is a significant new use to process or use the powder form of the substance outside of the site of manufacture or processing.

(iii) *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 (e), (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.

§ 721.11150 [Reserved]

§ 721.11151 2-Butanone 1,1,1,3,4,4,4-heptafluoro-3-(trifluoromethyl)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2-butanone 1,1,1,3,4,4,4-heptafluoro-3-(trifluoromethyl)- (PMN P–15–114, CAS No. 756–12–7) 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 substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) through (3) (when determining which persons are reasonable 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 exposures, where feasible), (b)(concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1)(i), (g)(2)(i)(v), (g)(3)(ii) (harmful to fish), (g)(4)(iii), and (g)(5). It is a significant new use unless containers of the PMN substance are labeled with the statement: ''contains a dielectric fluid which should not be mixed or used in conjunction with sulfur hexafluoride (SF6)''. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(t). It is a significant new use to use the substance other than as a dielectric medium for medium and high voltage power generation/distribution equipment and heat transfer.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N = 180.

(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.

§ 721.11152 Propanenitrile, 2,3,3,3 tetrafluoro-2-(trifluoromethyl)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as propanenitrile, 2,3,3,3 tetrafluoro-2-(trifluoromethyl)- (PMN P–15–320, CAS No. 42532–60–5) 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 substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 1.0%), (f), and (g)(5). It is a significant new use unless containers of the PMN substance are labeled with the statement: ''contains a dielectric fluid which should not be mixed or used in conjunction with sulfur hexafluoride (SF6)''. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(ii) *Industrial, commercial, and consumer activities.* It is a significant new use to use the substance other than as a dielectric medium for medium and high voltage power generation and distribution equipment.

(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 (f) through (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.

§ 721.11153 Polymeric sulfide (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polymeric sulfide (PMN P–15–734) 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), (when determining which persons are reasonable 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 exposures, where feasible), (b)(concentration set at 1.0%), and (c).

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

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) (wastewater heavy metal removal) and (q). It is a

significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to workers.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N = 2.

(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.

§ 721.11154 Quaternary ammonium salts (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as quaternary ammonium salts (PMNs P–16–356 and P–16–357) 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 substances after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified § 721.63(a)(1), (a)(2)(i), (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) (concentration set at 1.0%), and (c).

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

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a significant new use to manufacture, process, or use the substances in any manner way that results in generation of a vapor, mist or aerosol.

(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) 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.

§ 721.11155 Alkyl methacrylates, polymer with olefins (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkyl methacrylates, polymer with olefins (PMN P–16–375) 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 as specified in § 721.80(f). It is a significant new use to import the substance other than according to the confidential molecular weight parameters specified in the TSCA Order for the substance.

(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, importers, 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)(i) of this section.

§ 721.11156 Hexanedioic acid, 1,6-bis(3,5,5-trimethylhexyl) ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) the chemical substance identified as hexanedioic acid, 1,6-bis(3,5,5-trimethylhexyl) ester (PMN P–16–386, CAS No. 20270–50–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (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 shall be considered and implemented to prevent exposure, where feasible), (a)(6)(v) and (vi) (particulate (including solids or liquid droplets)), (b) (concentration set at 1.0%), and (c).

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

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) (motor oil formulations and gear oil lubricants) and (p) (1,545,000 kilograms).

(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) 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.

§ 721.11157 Alkylaminium hydroxide (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkylaminium hydroxide (PMN P–16–396) 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), (ii), (iii), and (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 exposures, where feasible), (b) (concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.71(a) through (e) (concentration set at 1.0%), (f), (g)(1)(i), (ii), (iii), (vi), and (ix), (eye damage), (g)(2)(i), (ii), (iii), and (v), and (g)(5). Alternative hazard and warning

statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k), (q), (v)(1) and (2), (w)(1) and (2), (x)(1) and (2), and (y)(1) and (2).

(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) 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.

§ 721.11158 Polyamine polyacid adducts (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as polyamine polyacid adducts (PMNs P–16–572 and P–16–573) 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.* It is a significant new to use to manufacture the substances in any manner other than they are not amine terminated in order to maintain water solubility levels below 1 part per billion.

(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.

§ 721.11159 Aromatic isocyanate, polymer with alkyloxirane polymer with oxirane ether with alkyldiol (2:l) and alkyloxirane polymer with oxirane ether with alkyltriol (3:l) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as aromatic isocyanate, polymer with alkyloxirane polymer with oxirane ether with alkyldiol (2:l) and alkyloxirane polymer with oxirane ether with alkyltriol (3:l) (PMN P–17–24) 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 substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i) and (iv), (a)(3), (a)(6)(v) and (vi) (particulate (including solids or liquid droplets)), (when determining which persons are reasonable 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 exposures, where feasible), (b) (concentration set at 0.1%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 0.1%), (f), (g)(1)(i) and (ii) (asthma), (g)(2)(i), (ii), (iii), and (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in generation of a vapor, dust, mist or aerosol. It is a significant new use is manufacture, processing, or use of the PMN substance for commercial purposes when the sealable goods or service could introduce the chemical substance into consumer settings.

(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) 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.

§ 721.11160 Aromatic isocyanate polymer with alkyloxirane, alkyloxirane polymer with oxirane ether with alkanetriol and oxirane (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as aromatic isocyanate polymer with alkyloxirane, alkyloxirane polymer with oxirane ether with alkanetriol and oxirane (PMN P–17–25) 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 substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i) and (iv), (a)(3), (a)(6)(v) and (vi), (particulate (including solids or liquid droplets)), (when determining which persons are reasonable 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 exposures, where feasible), (b) (concentration set at 0.1%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 0.1%), (f), (g)(1)(i) and (ii) (asthma), (g)(2)(i), (ii), (iii), and (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in generation of a vapor, dust, mist or aerosol. It is a significant new use is manufacture, processing, or use of the PMN substance for commercial purposes when the sealable goods or service could introduce the chemical substance into consumer settings.

(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) 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.

§ 721.11161 Oils, hedychium flavescens.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as oils, hedychium flavescens, (PMN P–17–148, CAS No. 1902936–65–5) 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), (iii), and (iv), (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 50), (a)(6)(v) and (vi), (b) (concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1)(iv), (vi), (vii), and (ix) (respiratory sensitization), (g)(2)(i), (ii), (iii), (iv), and (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k) (odoriferous component of fragrance compounds) and (s) (70 kilograms). It is a significant new use to manufacture, process, or use the substance in any manner that generates a mist or aerosol.

(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) 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.

§ 721.11162 Siloxanes and silicones, cetyl Me, di-Me, Me 2-(triethoxysilyl)ethyl.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as siloxanes and silicones, cetyl Me, di-Me, Me 2-(triethoxysilyl)ethyl (PMN P–17–174, CAS No. 1887149–13–4) 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 substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3) (when determining which persons are reasonable 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 exposures, where feasible), and (c).

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

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (q). It is a significant new use to manufacture or use the substance in any manner that results in generation of a vapor, mist or aerosol.

(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) 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.

§§ 721.11163–721.11165 [Reserved]

§ 721.11166 1H-Benz[de] isoquinoline-1,3(2H)-dione-2-(alkyl)-(alkylamino) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as 1H-benz[de] isoquinoline-1,3(2H)-dione-2-(alkyl)-(alkylamino) (PMN P–17–251) 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), (iii), and (iv), (a)(3), (when determining which persons are reasonably likely to be exposed as required as § 721.63(a)(1) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation shall be considered and implemented to prevent exposure, where feasible), (a)(6)(v) and (vi) (particulate (including solids or liquid droplets)), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1) (acute toxicity, mutagenicity, eye irritation), (g)(2)(i), (ii), and (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to import, process, or use the PMN substance at a concentration greater than 0.4%.

(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) 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.

§ 721.11167 Siloxanes and Silicones, di-Me, hydrogen-terminated, reaction products with acrylic acid and 2-ethyl-2-[(2-propen-1-yloxyl)methyl]-1,3-propanediol, polymers with chlorotrimethylsilane-iso-Pr alc.-sodium silicate reaction products.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as siloxanes and silicones, di-Me, hydrogen-terminated, reaction products with acrylic acid and 2-ethyl-2-[(2-propen-1-yloxyl)methyl]-1,3-propanediol, polymers with chlorotrimethylsilane-iso-Pr alc.-sodium silicate reaction products (PMN P–17–296, CAS No. 2014386–23–1) 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) through (iii), (a)(3) through (5) (respirators must

provide a National Institute for Occupational Safety and Health assigned protection factor of at least 1,000 and are required for any process generating a spray, mist, or aerosol), (when determining which persons are reasonable 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 exposures, where feasible), (a)(6)(v) and (vi) (particulate (including solids or liquid droplets)), (b) (concentration set at 1.0%), and (c).

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

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

(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) 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.

§ 721.11168 2-Pentanone, 2,2′,2″-[O,O′,O″-(ethenylsilylidyne)trioxime].

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2-pentanone, 2,2′,2″-[O,O′,O″-(ethenylsilylidyne)trioxime] (PMN P–17–308, CAS No. 58190–62–8) 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 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), (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) (concentration set at 1.0%), and (c).

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

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (q). It is a significant new use to process or use the substance involving a method that generates a vapor, mist, or aerosol.

(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 as specified in § 721.125(a) through (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.

(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.

§ 721.11169 2-Pentanone, 2,2′,2″- [O,O′,O″-(methylsilylidyne)trioxime].

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2-pentanone, 2,2′,2″- [O,O′,O″-(methylsilylidyne)trioxime] (PMN P–17–309, CAS No. 37859–55–5) 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 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), (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) (concentration set at 1.0%), and (c).

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

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (q). It is a significant new use to process or use the substance involving a method that generates a vapor, mist, or aerosol.

(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 as specified in § 721.125(a) through (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.

(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.

§ 721.11170 Naphthalene trisulfonic acid sodium salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as naphthalene trisulfonic acid sodium salt (PMN P–17–321) 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) and (iv), (a)(3) through (5) (respirators must provide a National Institute for Occupational Safety and Health assigned protection factor of at least 50), (when determining which persons are reasonable 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 exposures, where feasible), (b) (concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 1.0%), (f), (g)(1)(i), (ii), (iv), and (ix), (g)(2)(i) through (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally

Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q) and (t). It is a significant new use to manufacture, process, or use the substance in any manner that generates a vapor, mist, or aerosol.

(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) 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.

§ 721.11171 Polymer of aliphatic dicarboxylic acid and dicycloalkaneamine (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polymer of aliphatic dicarboxylic acid and dicycloalkaneamine (PMN P–17–327) 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 substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture (includes import) the substance to have an average molecular weight of greater than 10,000 Daltons.

(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 this substance.

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

§ 721.11172 Hexanedioic acid, polymer with trifunctional polyol, 1,1′-methylenebis [isocyanatobenzene], and 2,2′-oxybis[ethanol] (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as hexanedioic acid, polymer with trifunctional polyol, 1,1′-methylenebis [isocyanatobenzene], and 2,2′-oxybis[ethanol] (PMN P–17–330) 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 substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i) through (iv), (a)(3) (when determining which persons are reasonable 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 exposures, where feasible), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1)(i) (eye and respiratory irritation), (g)(2)(i) through (iii) and (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance for consumer use or for commercial uses that could introduce the substance into a consumer setting. It is a significant new use to manufacture, process, or use the substance in any manner that generates a dust, mist, or aerosol.

(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) 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.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2003–0118; FRL–10002–51–OAR]

RIN 2060–AG12

Protection of Stratospheric Ozone: Determination 35 for Significant New Alternatives Policy Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Determination of acceptability.

SUMMARY: This determination of acceptability expands the list of acceptable substitutes pursuant to the U.S. Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program. This action lists as acceptable additional substitutes for use in the refrigeration and air conditioning sector.

DATES: This determination is applicable on November 25, 2019.

ADDRESSES: The EPA established a docket for this action under Docket ID No. EPA–HQ–OAR–2003–0118 (continuation of Air Docket A–91–42). All electronic documents in the docket are listed in the index at *www.regulations.gov.* Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available either electronically at *www.regulations.gov* or in hard copy at the EPA Air Docket (Nos. A–91–42 and EPA–HQ–OAR–2003–0118), EPA Docket Center (EPA/DC), William J. Clinton West, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20460. 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 Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Gerald Wozniak by telephone at (202) 343–9624, by email at *wozniak.gerald@epa.gov,* or by mail at U.S. Environmental Protection Agency, Mail Code 6205T, 1200 Pennsylvania Avenue NW, Washington, DC 20460. Overnight or courier deliveries should be sent to the office location at 1201 Constitution Avenue NW, Washington, DC 20004.

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I. Listing of New Acceptable Substitutes: Refrigeration and Air Conditioning

This action list as acceptable additional substitutes for use in several end-uses in the refrigeration and air conditioning sector.

- R–1224yd(Z) in centrifugal and positive displacement chillers and industrial process refrigeration (new and retrofit);
- R–407H in multiple refrigeration and air conditioning end-uses;
- R–448A in ice skating rinks (new equipment);
- R–449A in ice skating rinks (new equipment);
- R–449B in ice skating rinks (new equipment); and
- R–453A in refrigerated transport (new and retrofit).

EPA's review of certain substitutes listed in this document is pending for other uses. Listing in the end-uses and applications in this document does not prejudge EPA's listings of these substitutes for other end-uses. The substitutes being added through this document to the acceptable lists for specific end-uses have a similar or lower risk than other substitutes already listed as acceptable in those end-uses. However, certain substitutes may have a higher overall risk than certain other substitutes already listed as acceptable or acceptable subject to restrictions. In such cases, those already-listed alternatives have not yet prove feasible in those specific end-uses.

For additional information on SNAP, visit the SNAP portion of EPA's Ozone Layer Protection website at: *www.epa.gov/snap.* Copies of the full lists of acceptable substitutes for ozone-depleting substances (ODS) in all industrial sectors are available at *www.epa.gov/snap/substitutes-sector.* For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the initial SNAP rulemaking published March 18, 1994 (59 FR 13044), codified at 40 CFR part 82, subpart G. SNAP decisions and the appropriate **Federal Register** citations are found at: *www.epa.gov/snap/snap-regulations.* Substitutes listed as unacceptable; acceptable, subject to narrowed use limits; or acceptable, subject to use conditions are also listed in the appendices to 40 CFR part 82, subpart G.

The sections below discuss each substitute listing in detail. Appendix A contains tables summarizing each listing decision in this action. The statements in the ''Further Information'' column in the tables provide additional information but these are not legally binding under section 612 of the Clean Air Act (CAA). Although you are not required to follow recommendations in the ''Further Information'' column of the table to use a substitute consistent with section 612 of the CAA, some of these statements may refer to obligations that are enforceable or binding under federal or state programs other than the SNAP program. The identification of other enforceable or binding requirements should not be construed as a comprehensive list of such obligations. In many instances, the information simply refers to standard operating practices in existing industry standards and/or building codes. When using these substitutes in the identified end-use, EPA strongly encourages you to apply the information in the ''Further Information'' column. Many of these recommendations, if adopted, would not require significant changes to existing operating practices.

You can find submissions to EPA for the substitutes listed in this document, as well as other materials supporting the decisions in this action, in Docket EPA–HQ–OAR–2003–0118 at *www.regulations.gov.*

A. R–1224yd(Z)

EPA's decision: EPA finds R–1224yd(Z) acceptable as a substitute for use in:

- Centrifugal chillers (new and retrofit equipment)
- Positive displacement chillers (new and retrofit equipment)
- Industrial process refrigeration (new and retrofit equipment)

R–1224yd(Z), marketed under the trade name AMOLEA™ yd, is also known as (Z)-1-chloro-2,3,3,3-tetrafluoropropene or HCFO–1224yd(Z) (Chemical Abstracts Service Registry Number [CAS Reg. No.] 111512–60–8).

You may find the redacted submission in Docket EPA–HQ–OAR–2003–0118 at *www.regulations.gov* under the name, ''Supporting Materials for Notice 35 Listing of R–1224yd(Z) in Refrigeration and Air Conditioning. SNAP Submission Received May 12, 2017.'' EPA performed assessments to examine the health and environmental risks of this substitute. These assessments are available in Docket EPA–HQ–OAR–2003–0118:

- ''Risk Screen on Substitutes in Centrifugal and Positive Displacement Chillers. Substitute: R–1224yd(Z)''
- ''Risk Screen on Substitutes in Industrial Process Refrigeration. Substitute: R–1224yd(Z)''

Environmental information: The submitter indicates that according to the National Institute of Advanced Industrial Science and Technology (AIST) of Japan R–1224yd(Z) has an ozone depletion potential (ODP) of approximately 0.00012 and a 100-year integrated global warming potential (GWP) [1] of about 1.[2] R–1224yd(Z) is a very short-lived substance with an atmospheric lifetime of approximately 20 days.[3] The ODP of R–1224yd(Z) is significantly less than the ODPs for the ODS subject to the phase out of production and consumption under regulations issued under sections 601–607 of the CAA and consistent with *Montreal Protocol on Substances that Deplete the Ozone Layer.* Under CAA regulations (see 40 CFR 51.100(s)) defining volatile organic compounds (VOC) for the purpose of addressing the development of state implementation plans (SIPs) to attain and maintain the National Ambient Air Quality Standards (NAAQS), R–1224yd(Z) would be considered a VOC. That definition provides that ''any compound of carbon'' which ''participates in atmospheric photochemical reactions'' is considered a VOC unless expressly excluded in that provision based on a determination of ''negligible photochemical reactivity.'' Knowingly venting or releasing this refrigerant blend is limited by the venting prohibition under section 608(c)(2) of the CAA, codified at 40 CFR 82.154(a)(1). This substitute is subject to a Toxic Substance Control Act (TSCA) section 5(e) Consent Order and any subsequent TSCA section 5(a)(2) Significant New Use Rule (SNUR).

[1] Unless otherwise stated, all GWPs in this document are 100-year values from: IPCC, 2007: *Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [Solomon, S., Qin, D., Manning, M., Chen, Z., Marquis, M., Averyt, K. B., Tignor M., and Miller, H. L. (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. This document is accessible at *www.ipcc.ch/publications_and_data/ar4/wg1/en/contents.html.*

[2] AIST

[3] AIST

Flammability information: R–1224yd(Z) is not flammable.

Toxicity and exposure data: Potential health effects of exposure to this substitute include drowsiness or dizziness. The substitute may also irritate the skin or eyes or cause frostbite. The substitute could cause asphyxiation if air is displaced by vapors in a confined space. These potential health effects are common to many refrigerants.

The Workplace Environmental Exposure Limit (WEEL) committee of the Occupational Alliance for Risk Science (OARS) recommends a WEEL for the workplace of 1,000 ppm on an eight-hour time-weighted average (8-hr TWA) for R–1224yd(Z). EPA anticipates that users will be able to meet the WEEL and address potential health risks by following requirements and recommendations in the manufacturer's safety data sheet (SDS), in American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 15, and other safety precautions common to the refrigeration and air conditioning industry.

Comparison to other substitutes in these end-uses: R–1224yd(Z) has an ODP of 0.00012, comparable to or less than other listed substitutes in these end-uses, with ODPs ranging from zero to 0.098.[4]

For centrifugal and positive displacement chillers, R–1224yd(Z)'s GWP of about 1 is comparable to or lower than that of other acceptable substitutes such as, for new chillers, ammonia absorption, carbon dioxide (CO_2), and hydrofluoroolefin (HFO)-1336mzz(Z), and for new and retrofit chillers, R–450A and R–513A, with GWPs ranging from 0 to 630.

For industrial process refrigeration, R–1224yd(Z)'s GWP of about 1 is comparable to or lower than that of other acceptable substitutes such as, for new equipment, ammonia absorption, and for new and retrofit equipment, CO_2, R–450A, R–513A and hydrofluorocarbon (HFC)-23, with GWPs ranging from 0 to 14,800.

Flammability and toxicity risks are comparable to or lower than flammability and toxicity risks of other available substitutes in the same end-uses. Toxicity risks can be minimized by use consistent with the OARS WEEL, ASHRAE 15, and other industry standards, recommendations in the manufacturer's SDS, and other safety precautions common in the refrigeration and air conditioning industry.

EPA finds R–1224yd(Z) acceptable in the end-uses listed above because it does not pose greater overall environmental and human health risk than other available substitutes in the centrifugal and positive displacement chillers and industrial process refrigeration end-uses.

B. R–407H

EPA's decision: EPA finds R–407H acceptable as a substitute for use in:

- Retail food refrigeration—supermarket systems (new and retrofit equipment)
- Retail food refrigeration—refrigerated food processing and dispensing equipment (new and retrofit equipment)
- Refrigerated transport—refrigerated trucks and trailers[5] (new and retrofit equipment)

R–407H, marketed under the trade name D407, is a weighted blend of 52.5 percent HFC–134a, which is also known as 1,1,1,2-tetrafluoroethane (CAS Reg. No. 811–97–2); 32.5 percent HFC–32, which is also known as difluoromethane (CAS Reg. No. 75–10–5); and 15 percent HFC–125, which is also known as 1,1,1,2,2-pentafluoroethane (CAS Reg. No. 354–33–6).

You may find the redacted submission in Docket EPA–HQ–OAR–2003–0118 at *www.regulations.gov* under the name, ''Supporting Documentation for Notice 33 Listing of R–407H in Refrigeration and Air Conditioning. SNAP Submission Received January 26, 2017.'' EPA performed assessments to examine the health and environmental risks of this substitute. These assessments are available in Docket EPA–HQ–OAR–2003–0118:

- ''Risk Screen on Substitutes in Retail Food Refrigeration Substitute: R–407H''
- ''Risk Screen on Substitutes in Refrigerated Transport Substitute: R–407H''

EPA previously listed R–407H as an acceptable refrigerant in retail food refrigeration—remote condensing units (July 21, 2017, 82 FR 33809).

Environmental information: R–407H has an ODP of zero. Its components, HFC–134a, HFC–32, and HFC–125, have GWPs of 1,430; 675; and 3,500, respectively. If these values are weighted by mass percentage, then R–407H has a GWP of about 1,500. The components of R–407H are excluded from the definition of VOC under CAA regulations (see 40 CFR 51.100(s)) addressing the development of SIPs to attain and maintain NAAQS. Knowingly venting or releasing this refrigerant blend is limited by the venting prohibition under section 608(c)(2) of the CAA, codified at 40 CFR 82.154(a)(1).

Flammability information: R–407H, as formulated and even considering the worst-case fractionation for flammability, is not flammable.

Toxicity and exposure data: Potential health effects of exposure to this substitute include drowsiness or dizziness. The substitute may also irritate the skin or eyes or cause frostbite. At sufficiently high concentrations, the substitute may cause irregular heartbeat. The substitute could cause asphyxiation if air is displaced by vapors in a confined space. These potential health effects are common to many refrigerants.

The American Industrial Hygiene Association (AIHA) has established WEELs of 1,000 ppm as an 8-hr TWA for HFC–134a, HFC–32, and HFC–125, the components of R–407H. The manufacturer of R–407H recommends an acceptable exposure limit (AEL) of 1,000 ppm on an 8-hr TWA for the blend. EPA anticipates that users will be able to meet each of the AIHA WEELs and the manufacturer's AEL and address potential health risks by following requirements and recommendations in the manufacturer's SDS, in ASHRAE 15, and other safety precautions common to the refrigeration and air conditioning industry.

Comparison to other substitutes in these end-uses: R–407H has an ODP of zero, comparable to or lower than the other listed substitutes in these end-uses, with ODPs ranging from zero to 0.098.

R–407H's GWP of 1,500 is lower than or comparable to that of acceptable substitutes for retail food refrigeration—refrigerated food processing and dispensing equipment (new and retrofit), such as a number of HFC blends with GWPs in the range of 1,500 to 1,700. The GWP of R–407H is higher than the GWPs of other acceptable substitutes for retail food refrigeration—refrigerated food processing and dispensing equipment (new and retrofit), including CO_2, R–450A, and R–513A with GWPs ranging from one to 630.

R–407H's GWP of 1,500 is lower than or comparable to that of acceptable substitutes for retail food refrigeration—supermarket systems (new and retrofit), such as a number of HFC blends with GWPs in the range of 1,500 to 2,630. The GWP of R–407H is higher than the GWPs of other acceptable substitutes for retail food refrigeration—supermarket systems (new and retrofit), including

[4] Unless otherwise stated, all ODPs in this document are from EPA's regulations at appendix A to subpart A of 40 CFR part 82.

[5] See Section II for clarification of this end-use.

CO_2, R–450A, and R–513A with GWPs ranging from one to 630.

R–407H's GWP of 1,500 is lower than or comparable to that of acceptable substitutes for refrigerated transport—refrigerated trucks and trailers such as R–404A, R–507A, and a number of HFC refrigerant blends with GWPs in the range of 1,500 to 3,990. R–407H's GWP is higher than the GWPs of other acceptable substitutes for refrigerated transport—refrigerated trucks and trailers, including ammonia absorption, CO_2, R–450A, and R–513A with GWPs ranging from zero to 630. Flammability and toxicity risks are comparable to or lower than flammability and toxicity risks of other available substitutes in the same end-uses. Toxicity risks can be minimized by use consistent with the AIHA WEELs, ASHRAE 15 and other industry standards, recommendations in the manufacturer's SDS, and other safety precautions common in the refrigeration and air conditioning industry.

EPA finds R–407H acceptable in the end-uses listed above because it does not pose greater overall environmental and human health risk than other available substitutes in the same end-uses.

C. R–448A

EPA's decision: EPA finds R–448A acceptable as a substitute for use in:

- Ice skating rinks (new equipment)

R–448A, marketed under the trade name Solstice® N–40, is a weighted blend of 26 percent HFC–32, which is also known as difluoromethane (CAS Reg. No. 75–10–5); 26 percent HFC–125, which is also known as 1,1,1,2,2-pentafluoroethane (CAS Reg. No. 354–33–6); 21 percent HFC–134a, which is also known as 1,1,1,2-tetrafluoroethane (CAS Reg. No. 811–97–2); 20 percent HFO–1234yf, which is also known as 2,3,3,3-tetrafluoroprop-1-ene (CAS Reg. No 754–12–1); and seven percent HFO–1234ze(E), which is also known as *trans*-1,3,3,3-tetrafluoroprop-1-ene (CAS Reg. No. 29118–24–9).You may find the redacted submission in Docket EPA–HQ–OAR–2003–0118 at *www.regulations.gov* under the name, ''Supporting Documentation for Notice 30 Listing of R–448A (N–40) in Certain Refrigeration and Air Conditioning End-Uses Submission Received May 29, 2014.'' EPA performed an assessment to examine the health and environmental risks of this substitute. This assessment is available in Docket EPA–HQ–OAR–2003–0118 ''Risk Screen on Substitutes in Ice Skating Rinks (New Equipment) Substitute: R–448A.''

EPA previously listed R–448A as an acceptable refrigerant in a number of other refrigeration and air conditioning end-uses, including retrofit use in ice skating rinks (*e.g.,* July 16, 2015, 80 FR 42053; October 11, 2016, 81 FR 70029; July 21, 2017, 82 FR 33809; October 4, 2018, 83 FR 50026).

Environmental information: R–448A has an ODP of zero. Its components, HFC–32, HFC–125, HFC–134a, HFO–1234yf, and HFO–1234ze(E) have GWPs of 675; 3,500; 1,430; one to four;[6] [7] and one to six;[8] respectively. If these values are weighted by mass percentage, then R–448A has a GWP of about 1,390. The components of R–448A are excluded from the definition of VOC under CAA regulations (see 40 CFR 51.100(s)) addressing the development of SIPs to attain and maintain the NAAQS. Knowingly venting or releasing this refrigerant blend is limited by the venting prohibition under section 608(c)(2) of the CAA, codified at 40 CFR 82.154(a)(1).

Flammability information: R–448A, as formulated and even considering the worst-case fractionation for flammability, is not flammable.

Toxicity and exposure data: Potential health effects of exposure to this substitute include drowsiness or dizziness. The substitute may also irritate the skin or eyes or cause frostbite. At sufficiently high concentrations, the substitute may cause irregular heartbeat. The substitute could cause asphyxiation if air is displaced by vapors in a confined space. These potential health effects are common to many refrigerants.

The AIHA has established WEELs of 1,000 ppm as an 8-hr TWA for HFC–32, HFC–125, and HFC–134a; 500 ppm for HFO–1234yf; and 800 ppm for HFO–1234ze(E), the components of R–448A. The manufacturer of R–448A recommends an AEL of 890 ppm on an 8-hr TWA for the blend. EPA anticipates that users will be able to meet the AIHA WEELs and manufacturer's AEL and address potential health risks by following requirements and recommendations in the manufacturer's SDS, in ASHRAE 15, and other safety precautions common to the refrigeration and air conditioning industry.

Comparison to other substitutes in this end-use: R–448A has an ODP of zero, comparable to or lower than other listed substitutes in this end-use, with ODPs ranging from zero to 0.098.

R–448A's GWP of 1,390 is lower than or comparable to that of acceptable substitutes for ice skating rinks (new), such as HFC–134a, R–407C, and R–507A, with GWPs ranging from 1,430 to 3,990. R–448A's GWP is higher than the GWPs of other acceptable substitutes for ice skating rinks (new), including ammonia absorption, CO_2, R–450A, and R–513A with GWPs ranging from zero to 630.

Flammability and toxicity risks are comparable to or lower than flammability and toxicity risks of other available substitutes in the same end-use. Toxicity risks can be minimized by use consistent with the AIHA WEELs, ASHRAE 15 and other industry standards, recommendations in the manufacturer's SDS, and other safety precautions common in the refrigeration and air conditioning industry.

EPA finds R–448A acceptable in the ice skating rinks (new) end-use because it does not pose greater overall environmental and human health risk than other available substitutes in this end-use.

D. R–449A

EPA's decision: EPA finds R–449A acceptable as a substitute for use in:

- Ice skating rinks (new equipment)

R–449A, marketed under the trade name Opteon® XP 40, is a weighted blend of 24.3 percent HFC–32, which is also known as difluoromethane (CAS Reg. No. 75–10–5); 24.7 percent HFC–125, which is also known as 1,1,1,2,2-pentafluoroethane (CAS Reg. No. 354–33–6); 25.7 percent HFC–134a, which is also known as 1,1,1,2-tetrafluoroethane (CAS Reg. No. 811–97–2); and 25.3 percent HFO–1234yf, which is also known as 2,3,3,3-tetrafluoroprop-1-ene (CAS Reg. No. 754–12–1).

You may find the redacted submission in Docket EPA–HQ–OAR–2003–0118 at *www.regulations.gov* under the name, ''Supporting Documentation for Notice 30 Listing of R–449A (XP40) in Certain Refrigeration and Air Conditioning End-Uses. SNAP Submission Received August 6, 2014.'' EPA performed an assessment to examine the health and environmental risks of this substitute. This assessment is available in Docket EPA–HQ–OAR–

[6] Hodnebrog Ø., Etminan, M., Fuglestvedt, J.S., Marston, G., Myhre, G., Nielsen, C.J., Shine, K.P., Wallington, T.J.: Global Warming Potentials and Radiative Efficiencies of Halocarbons and Related Compounds: A Comprehensive Review, *Reviews of Geophysics,* 51, 300–378, doi:10.1002/rog.20013, 2013

[7] Nielsen, O. J., Javadi, M. S., Sulbaek Andersen, M. P., Hurley, M. D., Wallington, T. J., Singh, R. Atmospheric chemistry of $CF_3CF{=}CH_2$: Kinetics and mechanisms of gas-phase reactions with Cl atoms, OH radicals, and O_3. *Chemical Physics Letters* 439, 18–22, 2007.

[8] Hodnebrog *et al.,* 2013 and Atmospheric chemistry of trans-CF3CH=CHF: products and mechanisms of hydroxyl radical and chlorine atom initiated oxidation'', M.S. Javadi, R. Søndergaard, O.J. Nielsen, M.D., Hurley, and T.J. Wellington, *Atmospheric Chemistry and Physics Discussions* 8, 1069–1088, 2008.

2003–0118 ''Risk Screen on Substitutes in Ice Skating Rinks (New Equipment) Substitute: R–449A.''

EPA previously listed R–449A as an acceptable refrigerant in a number of other refrigeration and air conditioning end-uses, including retrofit use in ice skating rinks (*e.g.,* July 16, 2015, 80 FR 42053; October 11, 2016, 81 FR 70029; July 21, 2017, 82 FR 33809; October 4, 2018, 83 FR 50026).

Environmental information: R–449A has an ODP of zero. Its components, HFC–32, HFC–125, HFC–134a, and HFO–1234yf, have GWPs of 675; 3,500; 1,430; and one to four,[9] respectively. If these values are weighted by mass percentage, then R–449A has a GWP of about 1,400. The components of R–449A are excluded from the definition of VOC under CAA regulations (see 40 CFR 51.100(s)) addressing the development of SIPs to attain and maintain the NAAQS. Knowingly venting or releasing this refrigerant blend is limited by the venting prohibition under section 608(c)(2) of the CAA, codified at 40 CFR 82.154(a)(1).

Flammability information: R–449A, as formulated and even considering the worst-case fractionation for flammability, is not flammable.

Toxicity and exposure data: Potential health effects of exposure to this substitute include drowsiness or dizziness. The substitute may also irritate the skin or eyes or cause frostbite. At sufficiently high concentrations, the substitute may cause irregular heartbeat. The substitute could cause asphyxiation if air is displaced by vapors in a confined space. These potential health effects are common to many refrigerants.

The AIHA has established WEELs of 1,000 ppm as an 8-hr TWA for HFC–32, HFC–125, and HFC–134a and 500 ppm for HFO–1234yf, the components of R–449A. The manufacturer of R–449A recommends an AEL of 830 ppm on an 8-hr TWA for the blend. EPA anticipates that users will be able to meet each of the AIHA WEELs and the manufacturer's AEL and address potential health risks by following requirements and recommendations in the manufacturer's SDS, in ASHRAE 15, and other safety precautions common to the refrigeration and air conditioning industry.

Comparison to other substitutes in this end-use: R–449A has an ODP of zero, comparable to or lower than the other listed substitutes in this end-use, with ODPs ranging from zero to 0.098.

R–449A's GWP of 1,400 is lower than or comparable to that of acceptable substitutes for ice skating rinks (new), such as HFC–134a, R–407C, and R–507A with GWPs ranging from 1,430 to 3,990. R–449A's GWP is higher than the GWPs of other acceptable substitutes for ice skating rinks (new), including ammonia absorption, CO_2, R–450A, and R–513A with GWPs ranging from zero to 630.

Flammability and toxicity risks are comparable to or lower than flammability and toxicity risks of other available substitutes in the same end-use. Toxicity risks can be minimized by use consistent with the AIHA WEELs, ASHRAE 15 and other industry standards, recommendations in the manufacturer's SDS, and other safety precautions common in the refrigeration and air conditioning industry.

EPA finds R–449A acceptable in the ice skating rinks (new) end-use because it does not pose greater overall environmental and human health risk than other available substitutes in the same end-use.

E. R–449B

EPA's decision: EPA finds R–449B acceptable as a substitute for use in:

- Ice skating rinks (new equipment)

R–449B, marketed under the trade name Forane® 449B, is a weighted blend of 25.2 percent HFC–32, which is also known as difluoromethane (CAS Reg. No. 75–10–5); 24.3 percent HFC–125, which is also known as 1,1,1,2,2-pentafluoroethane (CAS Reg. No. 354–33–6); 27.3 percent HFC–134a, which is also known as 1,1,1,2-tetrafluoroethane (CAS Reg. No. 811–97–2); and 23.2 percent HFO–1234yf, which is also known as 2,3,3,3-tetrafluoroprop-1-ene (CAS Reg. No. 754–12–1).

You may find the redacted submission in Docket EPA–HQ–OAR–2003–0118 at *www.regulations.gov* under the name, ''Supporting Documentation for Notice 32 Listing of R–449B in Refrigeration and Air Conditioning. SNAP Submission Received October 2, 2015.'' EPA performed an assessment to examine the health and environmental risks of this substitute. This assessment is available in Docket EPA–HQ–OAR–2003–0118 ''Risk Screen on Substitutes in Ice Skating Rinks (New Equipment) Substitute: R–449B.''

EPA previously listed R–449B as an acceptable refrigerant in a number of other refrigeration and air conditioning end-uses, including retrofit use in ice skating rinks (*e.g.,* October 11, 2016, 81 FR 70029; July 21, 2017, 82 FR 33809; October 4, 2018, 83 FR 50026).

Environmental information: R–449B has an ODP of zero. Its components, HFC–32, HFC–125, HFC–134a, and HFO–1234yf, have GWPs of 675; 3,500; 1,430; and one to four,[10] respectively. If these values are weighted by mass percentage, then R–449B has a GWP of about 1,410. The components of R–449B are excluded from the definition of VOC under CAA regulations (see 40 CFR 51.100(s)) addressing the development of SIPs to attain and maintain the NAAQS. Knowingly venting or releasing this refrigerant blend is limited by the venting prohibition under section 608(c)(2) of the CAA, codified at 40 CFR 82.154(a)(1).

Flammability information: R–449B, as formulated and even considering the worst-case fractionation for flammability, is not flammable.

Toxicity and exposure data: Potential health effects of exposure to this substitute include drowsiness or dizziness. The substitute may also irritate the skin or eyes or cause frostbite. At sufficiently high concentrations, the substitute may cause irregular heartbeat. The substitute could cause asphyxiation if air is displaced by vapors in a confined space. These potential health effects are common to many refrigerants.

The AIHA has established WEELs of 1,000 ppm as an 8-hr TWA for HFC–32, HFC–125, and HFC–134a and 500 ppm for HFO–1234yf, the components of R–449B. The manufacturer of R–449B recommends an AEL of 865 ppm on an 8-hr TWA for the blend. EPA anticipates that users will be able to meet each of the AIHA WEELs and the manufacturer's AEL and address potential health risks by following requirements and recommendations in the manufacturer's SDS, in ASHRAE 15, and other safety precautions common to the refrigeration and air conditioning industry.

Comparison to other substitutes in this end-use: R–449B has an ODP of zero, comparable to or lower than the other listed substitutes in this end-use, with ODPs ranging from zero to 0.098.

R–449B's GWP of 1,410 is lower than or comparable to that of acceptable substitutes for ice skating rinks (new), such as HFC–134a, R–407C, and R–507A with GWPs ranging from 1,430 to 3,990. R–449B's GWP is higher than the GWPs of other acceptable substitutes for ice skating rinks (new), including ammonia absorption, CO_2, R–450A, and R–513A with GWPs ranging from zero to 630.

[9] Hodnebrog *et al.,* 2013 and Nielsen *et al.,* 2007. *Op. cit.*

[10] Hodnebrog *et al.,* 2013 and Nielsen *et al.,* 2007. *Op. cit.*

Flammability and toxicity risks are comparable to or lower than flammability and toxicity risks of other available substitutes in the same end-use. Toxicity risks can be minimized by use consistent with the AIHA WEELs, ASHRAE 15 and other industry standards, recommendations in the manufacturer's SDS, and other safety precautions common in the refrigeration and air conditioning industry.

EPA finds R–449B acceptable in the ice skating rinks (new) end-use because it does not pose greater overall environmental and human health risk than other available substitutes in this end-use.

F. R–453A

EPA's decision: EPA finds R–453A acceptable as a substitute for use in:

- Refrigerated transport—refrigerated trucks and trailers [11] (new and retrofit equipment)

R–453A, marketed under the trade name RS–70, is a weighted blend of 53.8 percent HFC–134a, which is also known as 1,1,1,2-tetrafluoroethane (CAS Reg. No. 811–97–2); 20.0 percent HFC–32, which is also known as difluoromethane (CAS Reg. No. 75–10–5); and 20 percent HFC–125, which is also known as 1,1,1,2,2-pentafluoroethane (CAS Reg. No. 354–33–6); five percent HFC–227ea, which is also known as 1,1,1,2,3,3,3-heptafluoropropane (CAS Reg. No. 75–28–5); 0.6 percent R–600, which is also known as butane (CAS Reg. No. 75–28–5); and 0.6 percent R–601a, which is also known as isopentane (CAS Reg. No. 78–78–4).

You may find the redacted submission in Docket EPA–HQ–OAR–2003–0118 at *www.regulations.gov* under the name, ''Supporting Documentation for Notice 33 Listing of R–453A in Refrigeration and Air Conditioning. SNAP Submission Received March 12, 2015.'' EPA performed an assessment to examine the health and environmental risks of this substitute. This assessment is available in Docket EPA–HQ–OAR–2003–0118 ''Risk Screen on Substitutes in Refrigerated Transport—Substitute: R–453A.''

EPA previously listed R–453A as an acceptable refrigerant in a number of other refrigeration and air conditioning end-uses, including use in retail food refrigeration—remote condensing units, industrial process refrigeration, and cold storage warehouses (July 21, 2017, 82 FR 33809).

Environmental information: R–453A has an ODP of zero. Its components, HFC–134a, HFC–32, HFC–125, HFC–227ea, butane, and isopentane have GWPs of 1,430; 675; 3,500; 3,220; 4; and 5, respectively. If these values are weighted by mass percentage, then R–453A has a GWP of about 1,770. Except for butane and isopentane, which together make up 1.2 percent of the blend, the components of R–453A are excluded from the definition of VOC under CAA regulations (see 40 CFR 51.100(s)) addressing the development of SIPs to attain and maintain the NAAQS.[12] Knowingly venting or releasing this refrigerant blend is limited by the venting prohibition under section 608(c)(2) of the CAA, codified at 40 CFR 82.154(a)(1).

Flammability information: R–453A, as formulated and even considering the worst-case fractionation for flammability, is not flammable.

Toxicity and exposure data: Potential health effects of exposure to this substitute include drowsiness or dizziness. The substitute may also irritate the skin or eyes or cause frostbite. At sufficiently high concentrations, the substitute may cause irregular heartbeat. The substitute could cause asphyxiation if air is displaced by vapors in a confined space. These potential health effects are common to many refrigerants.

For the components of R–453A, AIHA has established WEELs of 1,000 ppm as an 8-hr TWA for HFC–134a, HFC–32, HFC–125, and HFC–227ea, and the American Conference of Governmental Industrial Hygienists (ACGIH) has established a Threshold Limit Value (TLV) of 1,000 ppm for R–600 and a TLV of 600 ppm for R–601a, both as an 8-hr TWA. The manufacturer of R–453A recommends an AEL of 1,000 ppm on an 8-hr TWA for the blend. EPA anticipates that users will be able to meet each of the AIHA WEELs, the ACGIH's TLVs, and the manufacturer's AEL and address potential health risks by following requirements and recommendations in the manufacturer's SDS, in ASHRAE 15, and other safety precautions common to the refrigeration and air conditioning industry.

Comparison to other substitutes in this end-use: R–453A has an ODP of zero, comparable to or lower than the other listed substitutes in this end-use, with ODPs ranging from zero to 0.098.

R–453A's GWP of 1,770 is lower than or comparable to that of acceptable substitutes for refrigerated transport—refrigerated trucks and trailers such as R–404A, R–507A, and a number of HFC refrigerant blends with GWPs in the range of 1,770 to 3,990. R–453A's GWP is higher than the GWPs of other acceptable substitutes for refrigerated transport—refrigerated trucks and trailers, including ammonia absorption, CO_2, R–450A, and R–513A with GWPs ranging from zero to 630.

Flammability and toxicity risks are comparable to or lower than flammability and toxicity risks of other available substitutes in the same end-uses. Toxicity risks can be minimized by use consistent with the AIHA WEELs, ASHRAE 15 and other industry standards, recommendations in the manufacturer's SDS, and other safety precautions common in the refrigeration and air conditioning industry.

EPA finds R–453A acceptable in the refrigerated transport—refrigerated trucks and trailers end-use because it does not pose greater overall environmental and human health risk than other available substitutes in this end-use.

II. Clarification of Refrigerated Transport—Refrigerated Trucks and Trailers End-Use Category

In this action, EPA is listing multiple refrigerants as acceptable substitutes in the ''refrigerated transport—refrigerated trucks and trailers'' end-use category. EPA first introduced this end-use category in prior listings for the refrigerants R–452A and R–452C (July 21, 2017, 82 FR 33809). In response to a request for clarification, we are providing a more thorough description of the types of equipment included in the refrigerated transport—refrigerated trucks and trailers end-use category. As previously specified, this end-use category covers a subset of on-road vehicles, *i.e.,* refrigerated trucks and trailers with a separate autonomous refrigeration unit with the condenser typically located at the front of a refrigerated trailer. This end-use category also covers domestic trailer refrigeration units that contain an integrated motor (*i.e.,* does not require a separate electrical power system or separate generator set to operate) that are transported as part of a truck, on truck trailers, and on railway flat cars. Other types of containers, such as sea-going ones that are connected to a ship's electrical system or require a separate generator that is not an integral part of the refrigeration unit to operate, are not included. This end-use category also does not include (i) refrigerated vans or other vehicles where a single system also supplies passenger comfort cooling,

[11] See Section II for clarification of this end-use.

[12] EPA's analysis of the local air quality impacts of potential emissions of HCs when used as refrigerant substitutes in all end-uses in the refrigeration and AC sector estimated that saturated HCs, such as butane and isopentane, have little impact on local air quality. 81 FR at 86792; December 1, 2016.

(ii) refrigerated containers that are less than 8 feet 4 inches in width, (iii) refrigeration units used on containers that require a separate generator to power the refrigeration unit, or (iv) ship holds.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: October 31, 2019.

Christopher Grundler,

Director, Office of Atmospheric Programs.

Appendix A: Summary of Decisions for New Acceptable Substitutes

REFRIGERATION AND AIR CONDITIONING

End-use	Substitute	Decision	Further information [1]
Centrifugal chillers *(new and retrofit equipment)*.	R–1224yd(Z)	Acceptable	R–1224yd(Z) has an ozone depletion potential (ODP) of approximately 0.00012 and a 100-yr global warming potential (GWP) of approximately 1. R–1224yd(Z) is also known as (Z)-1-chloro-2,3,3,3-tetrafluoropropene (CAS Reg. No. 111512–60–8). R–1224yd(Z) is not flammable. The Occupational Alliance for Risk Science (OARS) recommends a Workplace Environmental Exposure Limit (WEEL) of 1,000 ppm on an eight-hour time-weighted average (8-hr TWA) for R–1224yd(Z).
Ice skating rinks *(new equipment)*.	R–448A	Acceptable	R–448A has a 100-yr GWP of approximately 1,390. This substitute is a blend of HFC–32 which is also known as difluoromethane (CAS Reg. No. 75–10–5); HFC–125, which is also known as 1,1,1,2,2-pentafluoroethane (CAS Reg. No. 354–33–6); HFC–134a, which is also known as 1,1,1,2-tetrafluoroethane (CAS Reg. No. 811–97–2); HFO–1234yf, which is also known as 2,3,3,3-tetrafluoro-prop-l-ene (CAS Reg. No. 754–12–1); and HFO–1234ze(E) which is also known as *trans*-1,3,3,3-tetrafluoroprop-l-ene (CAS Reg. No. 29118–24–9). The blend is nonflammable. The American Industrial Hygiene Association (AIHA) has established WEELs of 1,000 ppm on an 8-hr TWA basis for HFC–32, HFC–125, and HFC–134a; 500 ppm for HFO–1234yf; and 800 ppm for HFO–1234ze(E). The manufacturer recommends an acceptable exposure limit (AEL) for the workplace for R–448A of 890 ppm (8-hr TWA).
Ice skating rinks *(new equipment)*.	R–449A	Acceptable	R–449A has a 100-year GWP of approximately 1,400. This substitute is a blend of HFC–32 (CAS Reg. No. 75–10–5); HFC–125 (CAS Reg. No. 354–33–6); HFC–134a (CAS Reg. No. 811–97–2); and HFO–1234yf (CAS Reg. No. 754–12–1). The blend is nonflammable. The AIHA has established WEELs of 1,000 ppm (8-hr TWA) for HFC–32, HFC–125, and HFC–134a; and 500 ppm for HFO–1234yf. The manufacturer recommends an AEL for the workplace for R–449A of 830 ppm (8-hr TWA).
Ice skating rinks *(new equipment)*.	R–449B	Acceptable	R–449B has a 100-year GWP of approximately 1,410. This substitute is a blend of HFC–32 (CAS Reg. No. 75–10–5); HFC–125 (CAS Reg. No. 354–33–6); HFC–134a (CAS Reg. No. 811–97–2); and HFO–1234yf (CAS Reg. No. 754–12–1). The blend is nonflammable. The AIHA has established WEELs of 1,000 ppm (8-hr TWA) for HFC–32, HFC–125, and HFC–134a; and 500 ppm for HFO–1234yf. The manufacturer recommends an AEL for the workplace for R–449B of 865 ppm (8-hr TWA).
Industrial process refrigeration *(new and retrofit equipment)*.	R–1224yd(Z)	Acceptable	R–1224yd(Z) has an ODP of approximately 0.00012 and a GWP of approximately 1. R–1224yd(Z) is also known as (Z)-1-chloro-2,3,3,3-tetrafluoropropene (CAS Reg. No. 111512–60–8). R–1224yd(Z) is not flammable. The OARS recommends a WEEL of 1,000 ppm (8-hr TWA) for R–1224yd(Z).
Positive Displacement chillers *(new and retrofit equipment)*.	R–1224yd(Z)	Acceptable	R–1224yd(Z) has an ODP of approximately 0.00012 and a GWP of approximately 1. R–1224yd(Z) is also known as (Z)-1-chloro-2,3,3,3-tetrafluoropropene (CAS Reg. No. 111512–60–8). R–1224yd(Z) is not flammable. The OARS recommends a WEEL of 1,000 ppm (8-hr TWA) for R–1224yd(Z).
Refrigerated transport—refrigerated trucks and trailers *(new and retrofit equipment)*.	R–407H	Acceptable	R–407H has a 100-year GWP of approximately 1,500. This substitute is a blend of HFC–134a (CAS Reg. No.811–97–2); HFC–32 (CAS Reg. No. 75–10–5); and HFC–125 (CAS Reg. No. 354–33–6). This blend is nonflammable. The AIHA has established WEELs of 1,000 ppm (8-hr TWA) for HFC–134a, HFC–32, and HFC–125. The manufacture recommends an AEL for the workplace for R–407H of 1,000 ppm (8-hr TWA).

REFRIGERATION AND AIR CONDITIONING—Continued

End-use	Substitute	Decision	Further information [1]
Refrigerated transport—refrigerated trucks and trailers *(new and retrofit equipment)*.	R–453A	Acceptable	R–453A has a 100-year GWP of approximately 1,770. This substitute is a blend of HFC–32, which is also known as difluoromethane (CAS Reg. No. 75–10–5); HFC–125, which is also known as 1,1,1,2,2-pentafluoroethane (CAS Reg. No. 354–33–6); HFC–134a, which is also known as 1,1,1,2-tetrafluoroethane (CAS Reg. No. 811–97–2); HFC–227ea, which is also known as 1,1,1,2,3,3,3-heptafluoropropane (CAS Reg. No. 439–89–0); R–600, which is also known as butane (CAS Reg. No. 75–28–5); and R–601a, which is also known as isopentane (CAS Reg. No. 78–78–4). The blend is nonflammable. The AIHA has established WEELs of 1,000 ppm (8-hr TWA) for HFC–32, HFC–125, HFC–134a, and HFC–227ea, and the American Conference of Governmental Industrial Hygienists has established a Threshold Limit Value (TLV) of 1,000 ppm for R–600 and a TLV of 600 ppm for R–601a, both as an 8-hr TWA. The manufacturer recommends an AEL for the workplace for R–453A of 1,000 ppm (8-hr TWA).
Retail food refrigeration—refrigerated food processing and dispensing equipment *(new and retrofit equipment)*.	R–407H	Acceptable	R–407H has a 100-year GWP of approximately 1,500. This substitute is a blend of HFC–134a (CAS Reg. No.811–97–2); HFC–32 (CAS Reg. No. 75–10–5); and HFC–125 (CAS Reg. No. 354–33–6). This blend is nonflammable. The AIHA has established WEELs of 1,000 ppm (8-hr TWA) for HFC–134a, HFC–32, and HFC–125. The manufacture recommends an AEL for the workplace for R–407H of 1,000 ppm (8-hr TWA).
Retail food refrigeration—supermarket systems *(new and retrofit equipment)*.	R–407H	Acceptable	R–407H has a 100-year GWP of approximately 1,500. This substitute is a blend of HFC–134a (CAS Reg. No.811–97–2); HFC–32 (CAS Reg. No. 75–10–5); and HFC–125 (CAS Reg. No. 354–33–6). This blend is nonflammable. The AIHA has established WEELs of 1,000 ppm (8-hr TWA) for HFC–134a, HFC–32, and HFC–125. The manufacture recommends an AEL for the workplace for R–407H of 1,000 ppm (8-hr TWA).

[1] Observe recommendations in the manufacturer's SDS and guidance for all listed refrigerants.

[FR Doc. 2019–25412 Filed 11–22–19; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0771; FRL–10000–64]

Clothianidin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of clothianidin in or on persimmon. Valent U.S.A., LLC, requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective November 25, 2019. Objections and requests for hearings must be received on or before January 24, 2020, 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–2008–0771, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0771 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 January 24, 2020. 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–2008–0771, 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 8E8672) by Valent U.S.A., LLC, P.O. Box 8025, Walnut Creek, CA 94596. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of the insecticide clothianidin (*E*)-*N*-[(2-Chloro-5-thiazolyl)methyl]-*N′*-methyl-*N″*-nitroguanidine in or on persimmon at 0.5 parts per million (ppm). As use of clothianidin has not been approved for domestic pesticide registrations, this tolerance is requested to cover residues of clothianidin in or on persimmon imported into the United States. That document referenced a summary of the petition prepared by Valent U.S.A., LLC, the registrant, which is available in the docket, *http://www.regulations.gov.* No comments were received for the Notice of Filing.

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 clothianidin including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with clothianidin follows.

A. Toxicological Profile

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

The toxicity database for clothianidin is complete. In mammals, toxicological effects are seen primarily in the liver, hematopoietic system, and kidneys. In subchronic oral studies, the dog seemed to be more sensitive to clothianidin than the rat. In addition to decreases in body weight and body weight gains observed in both animals, dogs also displayed decreased white blood cells, albumin, and total protein, as well as some anemia. Long-term dietary administration of clothianidin did not result in a wider spectrum of effects in the dog; in contrast, the chronic feeding studies in rats showed additional effects in the liver, ovaries, and kidneys. In the mouse chronic oral study, increases in vocalization and decreases in body weight gain were noted.

Neurotoxicity was observed in acute neurotoxicity studies in the rat and mouse and in the developmental neurotoxicity study in rats but was not observed in the subchronic neurotoxicity study or any other study in the toxicity database. No increased quantitative or qualitative susceptibility was observed in the developmental rat or rabbit studies. However, there was an increase in quantitative susceptibility in the developmental neurotoxicity and reproductive toxicity studies; offspring effects were observed in the absence of maternal toxicity. There was evidence of possible effects on the immune system in the database; however, a developmental immunotoxicity study indicated no evidence of susceptibility with regard to immunotoxicity. No toxic effects were observed up to the limit dose in the 28-day dermal study in rats. Clothianidin is not carcinogenic or mutagenic.

A summary of the toxicological effects of clothianidin, the specific information on the studies received, the nature of the adverse effects caused by clothianidin, and the NOAEL and lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found in docket ID number EPA–HQ–OPP–2011–0865 under Draft Human Health Risk Assessment in Support of Registration Review.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some

degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides.*

A summary of the toxicological endpoints for clothianidin used for human risk assessment can be found in docket ID number EPA–HQ–OPP–2011–0865 under Draft Human Health Risk Assessment in Support of Registration Review.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to clothianidin, EPA considered exposure under the petitioned-for tolerances as well as all existing clothianidin tolerances in 40 CFR 180.586. EPA assessed dietary exposures from clothianidin in food as follows:

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

Such effects were identified for clothianidin. In estimating acute dietary exposure, EPA used food consumption information from the 2003–2008 United States Department of Agriculture (USDA) National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, EPA assumed 100 percent crop treated and tolerance-level residues for all commodities with established or proposed tolerances for clothianidin.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment, EPA used the food consumption data from the USDA's 2003–2008 NHANES/WWEIA. As to residue levels in food, EPA assumed 100 percent crop treated and average residues from crop field trials for all commodities with established or proposed tolerances for clothianidin.

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

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use PCT estimates in the dietary assessment for clothianidin. 100% CT were assumed for all food commodities. Average residue levels from field-trial were used in the chronic dietary assessment.

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

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

Based on the Tier I Pesticide Root Zone Model—Ground Water (PRZM–GW) and Tier I Screening Concentration in Ground Water (SCI–GROW) models and the Tier II surface water concentration calculator (SWCC) computer model, the estimated drinking water concentrations (EDWCs) of clothianidin for acute exposures are estimated to be 67 parts per billion (ppb) for surface water and 180 ppb for ground water, and for chronic exposures are estimated to be 67 ppb for surface water and 139 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For the acute dietary risk assessment, the water concentration value of 180 ppb was used to assess the contribution to drinking water. For the chronic dietary risk assessment, the water concentration value of 139 ppb was used to assess the contribution to drinking water.

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

Clothianidin is currently registered for the following uses that could result in residential exposures: Turf, ornamental plants, interior plantscapes, and use in residential and commercial buildings. EPA assessed residential exposure using the following assumptions: For adults, combined dermal/inhalation exposure from application of pesticides via an aerosol can in indoor environments; for children 1 to <2 years old, the combined dermal/inhalation/incidental oral (*i.e.,* oral hand-to-mouth) exposures from post-application exposure to indoor-surface directed/perimeter/mattress (bed bug application); for children 6 to <11 years old, dermal exposures from post-application exposure to treated gardens; and for children 11 to <16 years old, dermal exposure from post-application exposure to treated turf while golfing.

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

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

Clothianidin is a member of the neonicotinoid class of pesticides and is a metabolite of another neonicotinoid, thiamethoxam. Structural similarities or common effects do not constitute a common mechanism of toxicity. Evidence is needed to establish that the chemicals operate by the same, or essentially the same sequence of major biochemical events. Although clothianidin and thiamethoxam bind selectively to insect nicotinic acetylcholine receptors (nAChR), the specific binding site(s)/receptor(s) for clothianidin, thiamethoxam, and the other neonicotinoids are unknown at this time. Additionally, the commonality of the binding activity itself is uncertain, as preliminary evidence suggests that clothianidin operates by direct competitive inhibition, while thiamethoxam is a non-competitive inhibitor. Furthermore, even if future research shows that neonicotinoids share a common binding activity to a specific site on insect nAChRs, there is not necessarily a

relationship between this pesticidal action and a mechanism of toxicity in mammals. Structural variations between the insect and mammalian nAChRs produce quantitative differences in the binding affinity of the neonicotinoids towards these receptors, which, in turn, confers the notably greater selective toxicity of this class towards insects, including aphids and leafhoppers, compared to mammals. While the insecticidal action of the neonicotinoids is neurotoxic, the most sensitive regulatory endpoint for clothianidin is based on unrelated effects in mammals, including changes in body and thymus weights, delays in sexual maturation, and still births. Additionally, the most sensitive toxicological effect in mammals differs across the neonicotinoids (such as testicular tubular atrophy with thiamethoxam, and mineralized particles in thyroid colloid with imidaclopid). Thus, there is currently no evidence to indicate that neonicotinoids share common mechanisms of toxicity, and EPA is not following a cumulative risk approach based on a common mechanism of toxicity for the neonicotinoids. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism released by OPP on EPA's website at *http://www.epa.gov/pesticides/cumulative/.*

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* There is no indication of increased quantitative or qualitative susceptibility, as compared to adults, of rat and rabbit fetuses following in utero exposure to clothianidin in developmental studies. However, increased quantitative susceptibility was observed in both the developmental neurotoxicity and rat multi-generation reproduction studies. In the developmental neurotoxicity study, offspring toxicity (decreased body weight gains, motor activity and acoustic startle response) was seen at a lower dose than that which caused maternal toxicity. In the 2-generation rat reproduction study, offspring toxicity (decreased body weight gains, delayed sexual maturation in males, decreased absolute thymus weights in F1 pups of both sexes and an increase in stillbirths in both generations) was seen at a dose lower than that which caused parental toxicity.

3. *Conclusion.* The EPA has determined that the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for clothianidin is complete.

ii. There are no residual concerns regarding potential pre- and post-natal toxicity in the young. A rat developmental neurotoxicity study is available and shows evidence of increased quantitative susceptibility of offspring. However, EPA considers the degree of concern for the developmental neurotoxicity study to be low for pre- and postnatal toxicity because the NOAEL and LOAEL were well characterized, and the doses and endpoints selected for risk assessment are protective of the observed susceptibility.

iii. As explained in Unit III.D.2 ''Prenatal and postnatal sensitivity'', while the rat multi-generation reproduction study showed evidence of increased quantitative susceptibility of offspring compared to adults, the degree of concern is low because the study NOAEL has been selected as the POD for risk assessment purposes for relevant exposure routes and durations. In addition, the potential immunotoxic effects observed in the study have been further characterized with the submission of a developmental immunotoxicity study that showed no evidence of susceptibility. As a result, there are no concerns or residual uncertainties for pre- and postnatal toxicity after establishing toxicity endpoints and traditional UFs to be used in the risk assessment for clothianidin.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments assumed 100 PCT and tolerance-level residues (acute assessment) or average residues from field trials designed to produce high-end residue levels (chronic assessment). EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to clothianidin in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children. These assessments will not underestimate the exposure and risks posed by clothianidin.

E. Aggregate Risks and Determination of Safety

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

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to clothianidin will occupy 18% of the aPAD for all infants (<1 year old), the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to clothianidin from food and water will utilize 9.0% of the cPAD for all infants (<1 year old), the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of clothianidin is not expected.

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

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

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 390 for adults and 150 children. Because EPA's level of concern for clothianidin is an MOE of

100 or below, these MOEs are not of concern.

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

Clothianidin is currently registered for uses that could result in intermediate-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to clothianidin. The short-term assessment is protective of any potential intermediate-term exposures.

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

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methods based on solvent extraction and liquid chromatography with tandem mass spectrometry separation, identification, and quantification, are available for plant (Morse Method #Meth-164—modified, RM–39C–1, or Bayer Method 00552) and livestock (Bayer Method 00624) matrices.

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.

Codex has established an MRL for residues of clothianidin in persimmon at 0.4 ppm. EPA is establishing the tolerance at 0.5 ppm at the request of the petitioner, to harmonize with the higher Japanese MRL. EPA believes the higher tolerance will facilitate more trade rather than the lower Codex MRL. The higher tolerance is greater than the highest value observed in field trials and is expected to be a suitable enforcement limit for residues in imported persimmon.

V. Conclusion

Therefore, a tolerance is established for residues of clothianidin in or on persimmon at 0.5 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 30, 2019.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.586, add alphabetically the entry ''Persimmon [1]'' to the table in paragraph (a)(1) to read as follows:

§ 180.586 Clothianidin; tolerances for residues.

(a) * * *

(1) * * *

Commodity	Parts per million
* * * * *	
Persimmon [1]	0.5
* * * * *	

* * * * *

[FR Doc. 2019–25535 Filed 11–22–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2018–0636; FRL–9996–61]

Cyflumetofen; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of the insecticide cyflumetofen in or on coffee, green bean. OAT Agrio. Ltd., Tokyo, Japan c/o Landis International, Inc. requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective November 25, 2019. Objections and requests for hearings must be received on or before January 24, 2020 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0636, 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., Director, Registration Division (750P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2018–0636 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 January 24, 2020. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2018–0636, 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 October 24, 2018 (83 FR 53594) (FRL–9983–46), 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 8E8693) by OAT Agrio. Ltd., Tokyo, Japan, c/o Landis International, Inc., 3185 Madison Highway, P.O. Box 5126, Valdosta, Georgia 31603–5126. The petition requested that 40 CFR 180.677 be amended by establishing a tolerance for residues of the insecticide cyflumetofen, (2-methoxyethyl α-cyano-α-[4-(1,1-dimethylethyl)phenyl]-β-oxo-2-(trifluoromethyl)benzenepropanoate), in or on coffee, green bean at 0.08 parts per million (ppm). That document referenced a summary of the petition prepared by OAT Agrio. Ltd. c/o Landis International, Inc., the registrant, which is available in docket number EPA–HQ–OPP–2018–0636, *http://www.regulations.gov.* These tolerances were requested to cover residues of cyflumetofen in or on coffee, green bean resulting from use of this pesticide on coffee outside the United States. There is no current U.S. registration for use of cyflumetofen on coffee. There were no substantive comments received in response to the notice of filing for this pesticide petition.

Based upon review of the data supporting the referenced petition, EPA is establishing a tolerance for residues of cyflumetofen on coffee, green bean.

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 cyflumetofen in or on coffee, green bean.

On May 8, 2019 (82 FR 20037) (FRL–9990–60), EPA published in the **Federal Register** a final rule establishing a tolerance for residues of the insecticide cyflumetofen in or on tea, dried is safe for the general population, including infants and children. *See* 84 FR 20037 (FRL–9990–60). That document contains a summary of the toxicological profile and points of departure, assumptions for exposure assessment, and the safety factor for children, which have not changed. The Agency conducted a revised risk assessment to incorporate exposure to residues of cyflumetofen from use on coffee.

EPA's exposure assessments have been updated to include the additional exposure from use of cyflumetofen on coffee, *i.e.,* reliance on tolerance-level residues and an assumption of 100 percent crop treated (PCT). Because the use on coffee is not an approved domestic use, there is no expectation of an increased exposure in drinking water or for non-dietary, non-occupational sources, although the additional dietary exposure contributes to overall aggregate exposure. Further information about EPA's risk assessment and determination of safety supporting the tolerances established in the May 8, 2019 **Federal Register** action, as well as the new cyflumetofen tolerance can be found at *http://www.regulations.gov* in the document entitled ''Cyflumetofen. Human Health Risk Assessment to Support New Uses on Imported Tea,'' dated March 4, 2019. The documents can be found in docket ID EPA–HQ–OPP–2017–0532.

As indicated in the supporting documents, no acute dietary exposure and risk analysis was performed for cyflumetofen since there were no appropriate studies identified in the toxicology database that demonstrated evidence of toxicity attributable to a single dose. Chronic dietary risks are below the Agency's level of concern: 2.4% of the chronic population adjusted dose (cPAD) for children 1–2 years old, the group with the highest exposure level. Moreover, the short-term aggregate risk for the population with the highest total exposure (adults 50–99 years old) was chosen since this is protective for all other adult sub-populations. There are no residential exposures expected for children; therefore, a short-term aggregate risk assessment for children is equal to the chronic food and drinking water exposure and risk estimates and is not of concern. Using the exposure assumptions described for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs above the LOC of 100 for all scenarios assessed and are not of concern.

Therefore, based on the risk assessments and information described above, EPA concludes there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to cyflumetofen residues. More detailed information on the subject action to establish a tolerance in or on coffee, green bean can be found in the document entitled, ''Cyflumetofen. Human Health Risk Assessment to Support New Uses without U.S. Registration in/on Imported Coffee,'' dated September 16, 2019, by going to *http://www.regulations.gov*. The referenced document is available in the docket established by this action, which is described under **ADDRESSES**. Locate and click on the hyperlink for docket ID number EPA–HQ–OPP–2018–0636.

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate enforcement methodology is available to enforce the HED-recommended tolerances for cyflumetofen in plant commodities. The high-performance liquid chromatography with tandem mass spectrometry (HPLC–MS/MS) method has been adequately validated, has undergone a successful ILV (independent laboratory validation), is considered adequately radio-validated and has been reviewed by the Agency for appropriateness as an enforcement method. The method limit of quantitation (LOQ) for residues of cyflumetofen in coffee is 0.01 ppm. Cyflumetofen has also been subjected to analysis by the Food and Drug Administration (FDA) multi-residue method (MRM) protocols. Cyflumetofen is not adequately recovered through any of the FDA multi-residue protocols.

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.

Codex has not established maximum residue limits (MRLs) for residues of cyflumetofen in coffee commodities; therefore, there are no harmonization issues.

V. Conclusion

Therefore, a tolerance is established for residues of the insecticide cyflumetofen, (2-methoxyethyl α-cyano-α-[4-(1,1-dimethylethyl)phenyl]-β-oxo-

2-(trifluoromethyl)benzenepropanoate), in or on coffee, green bean at 0.08 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 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: November 8, 2019.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.677, add a footnote and alphabetically the entry for ''Coffee, green bean [2]'' to the table in paragraph (a) to read as follows:

§ 180.677 Cyflumetofen; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Coffee, green bean [2]	0.08
* * * * *	

[2] There are no U.S. registrations for these commodities as of November 25, 2019.

* * * * *

[FR Doc. 2019–25543 Filed 11–22–19; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 302–1, 302–2, 302–4, and 302–17

[FTR Amendment 2020–02; FTR Case 2019–302; Docket No. 2019–0011, Sequence 1]

RIN 3090–AK00

Federal Travel Regulation; Taxes on Relocation Expenses, Relocation Expense Reimbursement

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Direct final rule; request for comments.

SUMMARY: The General Services Administration (GSA), in consultation with the Secretary of the Treasury, is issuing a direct final rule to amend the Federal Travel Regulation (FTR) to authorize relocation reimbursement for a number of expenditures. This amendment is necessary because the Tax Cuts and Jobs Act of 2017 suspended both the moving expenses income tax deduction and the exclusion from income for qualified moving expense reimbursements for tax years 2018 through 2025.

DATES: *Effective date:* This rule is effective on January 9, 2020 without further action, unless GSA receives adverse comments by December 26, 2019. GSA will consider whether these comments are significant enough to publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. Please see **SUPPLEMENTARY INFORMATION** for more information on significant adverse comments.

Applicability date: This direct final rule is applicable to employees who are authorized reimbursement for relocation expenses under the FTR and who receive some or all reimbursements, direct payments, or indirect payments on or after January 1, 2018, and on or before December 31, 2025.

Comment Date: Interested parties should submit written comments to the Regulatory Secretariat Division at one of the addresses shown below on or before December 26, 2019 to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by FTR Case 2019–302 by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''FTR Case 2019–302'' under the heading ''Enter Keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''FTR Case 2019–302'' and follow the instructions provided on the screen. Please include your name, company name (if any), and ''FTR Case 2019–302'' on your attached document.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), Attn: Lois Mandell, 1800 F Street NW, Washington, DC 20405.

Instructions: Please submit comments only and cite ''FTR Case 2019–302'' in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Rick Miller, Program Analyst, Office of Government-wide Policy, at 202–501–3822 or *rodney.miller@gsa.gov.* Contact the Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, 202–501–4755, for information pertaining to status or publication schedules; please cite ''FTR Case 2019–302.''

SUPPLEMENTARY INFORMATION:

A. Public Participation

GSA is publishing this direct final rule without a prior proposed rule because this is a non-controversial action resulting from changes to the Internal Revenue Code made by Public Law (Pub. L.) 115–97, known as the ''Tax Cuts and Jobs Act of 2017'' (December 22, 2017), and GSA anticipates no significant adverse comments. A significant adverse comment is defined as one where the comment explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. In determining whether a significant adverse comment is sufficient to terminate a direct final rulemaking, GSA will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. GSA notes that comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered adverse under this procedure. A comment recommending a rule change in addition to the rule will not be considered a significant adverse comment, unless the comment states why the rule would be ineffective without the additional change. In addition, if a significant adverse comment applies to a part of a rule and that part can be severed from remainder of the rule (*e.g.,* where a rule deletes several unrelated regulations), GSA may adopt as final those parts of the rule that are not the subject of a significant adverse comment.

For detailed instructions on sending comments and additional information on the rulemaking process, see the **ADDRESSES** section of this document.

B. Background

The Tax Cuts and Jobs Act of 2017 suspended moving expense deductions along with the exclusion for employer reimbursements and payments of qualified moving expenses effective January 1, 2018, for tax years 2018 through 2025. Pursuant to 5 U.S.C. 5738, the Administrator of General Services is mandated to prescribe necessary regulations regarding Federal employees who relocate in the interest of the Government. The overall implementing authority is the FTR, codified in Title 41 of the Code of Federal Regulations, Chapters 300–304 (41 CFR Chapters 300–304).

C. Discussion of Changes and Expected Impact of This Rule

The direct final rule amends the FTR in accordance with the new tax changes impacting relocation expense entitlements for those employees identified in FTR section 302–1.1 who are authorized relocation reimbursements under the FTR and who receive some or all reimbursements, direct payments, or indirect payments on or after January 1, 2018 and on or before December 31, 2025. This direct final rule amends the FTR sections pertaining to the supplemental wage rate, taxable and nontaxable relocation entitlements, Withholding Tax Allowance (WTA), Relocation Income Tax Allowance (RITA), and employee eligibility for WTA and RITA. This direct final rule also clarifies the 50-mile distance test definition for purposes of relocation expense allowances, where to find relocation mileage reimbursement rates when using a privately owned vehicle (POV) to travel from the old duty station to the new duty station, and other provisions of FTR Chapter 302 impacted by the new tax changes. In addition, this direct final rule removes certain examples and tables from FTR part 302–17 and directs readers to updated examples and tables published in an FTR bulletin on the GSA website.

Accordingly, the direct final rule amends the FTR by:

1. Section 302–1.1(b)—Revising language regarding application of the 50-mile distance test.

2. Section 302–2.6(b)—Removing the second sentence and its unnecessary reference to the Internal Revenue Code (IRC) and adding a sentence with factors for agencies to consider when authorizing an exception to the 50-mile distance test.

3. Part 302–4—Revising the authority citation to correct a typographical error.

4. Section 302–4.300—Revising the last sentence to replace a defunct website link.

5. Section 302–17.1—Revising the term ''Marginal tax rate (MTR)'' to remove the example and notify the reader that examples of how to determine the MTR are published in an FTR bulletin.

6. Section 302–17.5—Revising the second sentence to clarify that eligibility for WTA and RITA includes employees transferring in the interest of the Government from one official station or agency to another for permanent or temporary change of station (TCS).

7. Section 302–17.6—Revising paragraphs (b) and (c) and adding paragraph (d) to include Senior Executive Service (SES) employees making last moves home for the purpose of separating from Government service as not eligible for the WTA and RITA.

8. Section 302–17.8—Revising paragraph (a) to effectuate the new tax changes that render certain expenses non-deductible, and revising paragraph (b) to note that the table accompanying this section summarizing the FTR allowances, limitations, and tax treatment of each reimbursement, allowance, or direct payment to a service provider or vendor has been removed from the FTR and placed in an FTR Bulletin. Removing paragraph (c) because its reference to the table to § 302–17.8 is now obsolete.

9. Table to § 302–17.8. FTR Allowances and Federal Income Tax Treatments—Removing the Table because it is published in an FTR bulletin.

10. Section 302–17.12—Removing reference to ''IRS Publication 521, Moving Expenses'' as it does not

provide additional information and guidance on WTA and RITA.

11. Section 302–17.21—Revising and adding paragraphs on which relocation expenses the WTA covers based upon the new tax changes and updating a reference regarding situations where the employee or an immediate family member does not hold full title to the home being bought or sold.

12. Section 302–17.22—Revising paragraph (a) to reflect which relocation expenses the WTA does not cover based upon the new tax changes. Removing paragraph (e) and redesignating paragraphs (f), (g), and (h) as paragraphs (e), (f), and (g), respectively.

13. Section 302–17.24—Revising to update the supplemental wage rate from ''25 percent'' to the applicable supplemental wage rate generally. Removing Example 1 to part 302–17 and adding a sentence notifying the reader that examples of how to calculate the WTA are published in an FTR bulletin.

14. Note to Section 302–17.24—Revising to include Medicare in the parenthetical because both Social Security and Medicare payroll taxes are collected together under the Federal Insurance Contributions Act (FICA) tax.

15. Section 302–17.30(a)—Revising to update the percentage rate from ''25 percent'' to the income tax withholding rate applicable to supplemental wages generally.

16. Section 302–17.40—Adding a sentence to paragraph (b) notifying the reader that examples of how to calculate the combined marginal tax rate are published in an FTR bulletin and removing Example 2 to part 302–17 from paragraph (c).

17. Section 302–17.60(d)—Removing paragraph (d) and its accompanying table as unnecessary.

18. Section 302–17.61(b)—Revising paragraphs (b)(1) and (b)(2) to update the supplemental wage rate from ''25 percent'' to the applicable supplemental wage rate generally, and removing from paragraph (b)(1) Example 3 to part 302–17 and references thereto in paragraphs (b)(1) and (b)(2). Adding paragraph (b)(3) to notify the reader that examples of relocation expense allowances paid by accepting or declining the WTA are published in an FTR bulletin.

19. Section 302–17.62(b)—Removing the last sentence as it refers to Example 3 to part 302–17 which is now published in an FTR Bulletin.

D. Executive Orders 12866 and 13563

Executive Orders (E.O.) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives, and if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. GSA has determined that this direct final rule is a significant regulatory action and is subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. GSA has further determined that this direct final rule is not a major rule under 5 U.S.C. 804.

E. Executive Order 13771

This direct final rule is not subject to the requirements of E.O. 13771 because it is related to agency organization, management, or personnel.

F. Regulatory Flexibility Act

This direct final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* This direct final rule is also exempt from the Administrative Procedure Act pursuant to 5 U.S.C. 553(a)(2) because it applies to agency management or personnel.

G. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FTR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

H. Small Business Regulatory Enforcement Fairness Act

This direct final rule is also exempt from Congressional review prescribed under 5 U.S.C. 801. This direct final rule is not a major rule under 5 U.S.C. 804.

List of Subjects in 41 CFR Parts 302–1, 302–2, 302–4, and 302–17

Government employees, Income taxes, Travel and transportation expenses.

Dated: November 18, 2019.

Emily W. Murphy,

Administrator, General Services Administration.

For the reasons set forth in the preamble, GSA amends 41 CFR parts 302–1, 302–2, 302–4, and 302–17 as set forth below:

PART 302–1—GENERAL RULES

■ 1. The authority citation for 41 CFR part 302–1 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a).

§ 302–1.1 [Amended]

■ 2. Amend § 302–1.1 by removing from paragraph (b) ''is at least 50 miles distant from your old duty station'' and adding ''meets the 50-mile distance test'' in its place.

PART 302–2—EMPLOYEE ELIGIBILITY REQUIREMENTS

■ 3. The authority citation for 41 CFR part 302–2 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a).

■ 4. Amend § 302–2.6 by revising paragraph (b) to read as follows:

§ 302–2.6 May I be reimbursed for relocation expenses if I relocate to a new official station that does not meet the 50-mile distance test?

* * * * *

(b) The head of your agency or designee may authorize an exception to the 50-mile threshold on a case-by-case basis when the authorized official determines that it is in the best interest of the Government. The determination must take into consideration such factors as commuting time and distance between the employee's residence at the time of notification of transfer and the new official station.

* * * * *

PART 302–4—ALLOWANCES FOR SUBSISTENCE AND TRANSPORTATION

■ 5. The authority citation for 41 CFR part 302–4 is revised to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O 11609, 36 FR 13747, 3 CFR, 1971–1975 Comp., p. 586.

§ 302–4.300 [Amended]

■ 6. Amend § 302–4.300 by removing ''*www.gsa.gov/relo*'' from the last sentence and adding ''*https://gsa.gov/ftrbulletins*'' in its place.

PART 302–17—TAXES ON RELOCATION EXPENSES

■ 7. The authority citation for 41 CFR part 302–17 continues to read as follows:

Authority: 5 U.S.C. 5724b; 5 U.S.C. 5738; E.O. 11609, as amended, 3 CFR, 1971–1975 Comp., p. 586.

■ 8. Amend § 302–17.1 by revising the definition of ''Marginal tax rate (MTR)'' to read as follows:

§ 302–17.1 What special terms apply to this part?

* * * * *

Marginal tax rate (MTR) means the tax rate that applies to the last increment of taxable income after taxable relocation benefits have been added to the employee's income. Examples of how to determine the marginal tax rate using the IRS Tax Rate Schedules are published in an FTR bulletin at *https://gsa.gov/ftrbulletins*.

* * * * *

§ 302–17.5 [Amended]

■ 9. Amend § 302–17.5 by removing ''from one permanent duty station to another, in the interest of the Government'' and adding ''in the interest of the Government from one official station or agency to another'' in its place.

■ 10. Amend § 302–17.6 by revising paragraphs (b) and (c) and adding paragraph (d) to read as follows:

§ 302–17.6 Who is not eligible for the WTA and the RITA?

* * * * *

(b) Assigned under the Government Employees Training Act;

(c) Returning from an overseas assignment for the purpose of separation from Government service; or

(d) A Senior Executive Service (SES) employee making their last move home for the purpose of separation from Government service.

■ 11. Revise § 302–17.8 to read as follows:

§ 302–17.8 What limitations and Federal income tax treatments apply to various relocation reimbursements?

(a) Some relocation expenses reimbursed to you or paid directly by the Government on or after January 1, 2018, and on or before December 31, 2025, must be reported as income and you cannot claim them as deductible expenses on your Federal tax return.

(b) A table summarizing the FTR allowances, limitations, and tax treatment of each reimbursement, allowance, or direct payment to a service provider or vendor is published at *https://gsa.gov/ftrbulletins.* The table also cites relevant FTR paragraphs for details. GSA will revise the table to reflect any changes as quickly as possible; however, users of this part may wish to consult with a tax advisor to determine what limitations and Federal income tax treatments apply to your relocation reimbursement(s).

■ 12. Revise § 302–17.12 to read as follows:

§ 302–17.12 Where can I find additional information and guidance on WTA and RITA?

GSA has published additional information on WTA and RITA, including the illustrations and examples of various RITA computations, in FTR Bulletins which are updated as necessary. GSA FTR Bulletins may be found at *https://gsa.gov/ftrbulletins*.

■ 13. Revise § 302–17.21 to read as follows:

§ 302–17.21 What relocation expenses does the WTA cover?

The WTA covers certain allowances, reimbursements, and/or direct payments to vendors, to the extent that each of them is taxable income. In particular, the WTA covers:

(a) En route lodging, meals and incidental expenses—Reimbursements for lodging, meals and incidental expenses while en route to the new official station for you and your immediate family member(s). (See part 302–4 of this chapter).

(b) Transportation—Transportation expenses, to include commercial air or privately owned vehicle, for you and your immediate family member(s) transferred between official stations. (See part 302–4 of this chapter).

(c) Househunting trip—Travel (including per diem and transportation) expenses for you and/or your spouse for a round trip to the new official station to seek permanent residence quarters. Househunting is covered regardless of whether reimbursed under the per diem allowance or lump sum method. (See part 302–5 of this chapter).

(d) Temporary quarters—Subsistence expenses for you and your immediate family during occupancy of temporary quarters at the old or new official station. Temporary quarters are covered regardless of whether reimbursed under the actual expense or lump sum method. (See part 302–6 of this chapter).

(e) Transportation and temporary storage of personal property—Transportation and temporary storage of household goods (HHG) and at Government expense for employees who transferred between official stations. (See part 302–7 of this chapter).

(f) Extended storage—Extended storage of household goods for a temporary change of station in CONUS or assignment to an isolated duty station in CONUS. (See part 302–8 of this chapter).

(g) Transportation of privately owned vehicle—Transportation of a privately owned vehicle at Government expense for employees who transferred between official stations in CONUS. (See part 302–9 of this chapter).

(h) Transportation of mobile homes and boats used as a primary residence—Expenses for transportation of a mobile home or boat in lieu of transportation of household goods to the new official station. (See part 302–10 of this chapter).

(i) Real estate—Expenses for the sale of the residence at your old official station and/or purchase of a home at your new official station, when reimbursement is made directly to you. This can also include expenses for settling an unexpired lease (''breaking'' a lease) at your old official station. (See part 302–11 of this chapter. If you or a member of your immediate family do not hold full title to the home you are selling or buying, see § 302–11.103 of this chapter).

(j) Relocation services company—Expenses paid by a relocation services company to the extent such payments constitute taxable income to the employee. The extent to which such payments constitute taxable income varies according to the individual circumstances of your relocation, and by the state and locality in which you reside. (See appropriate state and local tax authorities for additional information). (See also part 302–12 of this chapter).

(k) Property Management Services—Payment for the services of a property manager for renting rather than selling a residence at your old official station. (See part 302–15 of this chapter).

(l) Miscellaneous expense allowance—Miscellaneous expenses for defraying certain relocation expenses not covered by other relocation benefits. (See part 302–16 of this chapter).

■ 14. Amend § 302–17.22 by:

■ a. Revising paragraph (a);

■ b. Removing paragraph (e); and

■ c. Redesignating paragraphs (f) through (h) as paragraphs (e) through (g).

The revision reads as follows:

§ 302–17.22 What relocation expenses does the WTA not cover?

* * * * *

(a) Any reimbursement, allowance, or direct payment to a vendor that should not be reported as taxable income when you file your Federal tax return; this includes but is not limited to expenses for transportation of POVs for OCONUS assignments.

* * * * *

■ 15. Revise § 302–17.24 to read as follows:

§ 302–17.24 How does my agency compute my WTA?

Each time your agency pays a covered, taxable relocation expense,

regardless of whether it is a reimbursement, allowance, or direct payment to a vendor, it is considered ''supplemental wages'' as defined in 26 CFR 31.3402(g)–1(a) (see also IRS Publication 15, Employer's Tax Guide). You owe taxes on the WTA itself because, like most other relocation allowances, it is taxable income. To reimburse you for the taxes on the WTA itself, your agency computes the WTA by using the grossed-up withholding formula below and the appropriate supplemental wage rate, as specified in IRS Publication 15. This rate, along with examples of how to calculate the WTA, is published in an FTR bulletin available at *https://gsa.gov/ftrbulletins*. The formula for calculating the WTA is:

$$WTA = R/(1 - R) \times Expense$$

Where R is the withholding rate for supplemental wages.

Note to § 302–17.24: Your agency must deduct withholding for FICA (Medicare and Social Security), as the WTA does not cover such expenses.

§ 302–17.30 [Amended]

■ 16. Amend § 302–17.30 by removing from paragraph (a) ''25 percent''.

■ 17. Amend § 302–17.40 by adding a sentence to the end of paragraph (b) and revising paragraph (c) to read as follows:

§ 302–17.40 How does my agency calculate my CMTR?

* * * * *

(b) * * * Examples of how to calculate the CMTR are published in an FTR bulletin available at *https://gsa.gov/ftrbulletins*.

(c) The formula for calculating the CMTR is:

$$CMTR = F + (1 - F)S + (1 - F)L$$

Where:

F = Your Federal marginal tax rate
S = Your state marginal tax rate, if any
L = Your local marginal tax rate, if any

* * * * *

§ 302–17.60 [Amended]

■ 18. Amend § 302–17.60 by removing paragraph (d) and its accompanying table.

■ 19. Amend § 302–17.61 by revising paragraph (b) to read as follows:

§ 302–17.61 Is the WTA optional under the two-year process?

* * * * *

(b) When deciding whether or not to receive the WTA, you should consider the following:

(1) If you expect that your marginal Federal tax rate will be equal to or higher than the supplemental wage rate for the calendar year in which you received the majority of your relocation reimbursements, you may want to elect to receive the WTA.

(2) If you expect that your marginal Federal tax rate will be less than the supplemental wage rate for the calendar year in which you received the majority of your relocation reimbursements, you may want to decline receiving the WTA to avoid or limit possible overpayment of the WTA, the so-called ''negative RITA'' situation. In a ''negative RITA'' situation, you must repay some of the WTA in Year 2. However, even if your marginal Federal tax rate will be less than the supplemental wage rate, you may want to accept the WTA so that your initial reimbursement is larger.

(3) Examples showing relocation allowances paid by accepting or declining the WTA are published in an FTR bulletin available at *https://gsa.gov/ftrbulletins*.

§ 302–17.62 [Amended]

■ 20. Amend § 302–17.62 by removing the last sentence from paragraph (b).

[FR Doc. 2019–25411 Filed 11–22–19; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 447

[CMS–2345–IFC3]

RIN 0938–AT09

Medicaid Program; Covered Outpatient Drug; Further Delay of Inclusion of Territories in Definitions of States and United States

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: The Covered Outpatient Drug final rule with comment period was published in the February 1, 2016 **Federal Register**. As part of that final rule with comment period, we amended the regulatory definitions of ''States'' and ''United States'' to include the U.S. territories (American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States) beginning April 1, 2017. Subsequently, in the November 15, 2016 **Federal Register**, we published an interim final rule with comment period (IFC) to further delay the inclusion of the U.S. territories in the regulatory definitions of ''States'' and ''United States'' until beginning April 1, 2020. This IFC further delays the inclusion of the territories in the definitions of ''States'' and ''United States'' until beginning April 1, 2022.

DATES:

Effective date: These regulations are effective on January 24, 2020.

Comment date: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on January 24, 2020.

ADDRESSES: In commenting, please refer to file code CMS–2345–IFC3. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov*. Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2345–IFC3, P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2345–IFC3, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Wendy Tuttle, (410) 786–8690.

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://regulations.gov*. Follow the search instructions on that website to view public comments.

I. Background

A. Introduction

The Covered Outpatient Drug final rule with comment period was published in the February 1, 2016 **Federal Register** (81 FR 5170) (final rule). The final rule implemented provisions of section 1927 of the Social Security Act (the Act) that were added by the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010 (collectively referred to as the Affordable Care Act) pertaining to Medicaid reimbursement for covered outpatient drugs (CODs). The final rule also revised other requirements related to CODs, including key aspects of Medicaid coverage and payment and the Medicaid Drug Rebate (MDR) program under section 1927 of the Act. The final rule became effective on April 1, 2016. However, the regulatory definitions of ''States'' and ''United States'' under § 447.502 were amended to include the U.S. territories (American Samoa, Northern Mariana Islands, Guam, Puerto Rico, and the Virgin Islands) beginning April 1, 2017.

We stated in the preamble to the final rule that U.S. territories may use existing waiver authority to elect not to participate in the MDR program consistent with the statutory waiver standards. Specifically, the Northern Mariana Islands and American Samoa may seek to opt out of participation under the broad waiver that has been granted to them in accordance with section 1902(j) of the Act. Puerto Rico, the Virgin Islands, and Guam may use waiver authority under section 1115(a)(1) of the Act to waive section 1902(a)(54) of the Act, which requires state compliance with the applicable requirements of section 1927 of the Act (81 FR 5203 through 5204).

We also stated in the final rule that, effective with the change in the definition of ''United States'', drug manufacturers would be required to include prices paid by entities in the U.S. territories in the same manner in which they include prices paid by entities located in one of the 50 states and District of Columbia (81 FR 5224) in their calculations of average manufacturer price (AMP) and best price. This change requires manufacturers to include eligible sales and associated discounts, rebates, and other financial transactions that take place in the U.S. territories in their calculations of AMP and best price once the revised definitions of States and United States become effective, regardless of whether the U.S. territories seek to waive participation in the MDR program.

B. Interim Final Rule With Comment Period Published November 15, 2016

Based on initial discussions with the U.S. territories, it became evident that interested U.S. territories would not be ready to implement the program by April 1, 2017. Specifically, the territories needed time to develop and change electronic claims processing systems to identify and report utilization (taking into account all of the complexities in tracking utilization by National drug code numbers) and to match utilization with the unit rebate amounts to generate rebate invoices. Further, these systems must be capable of collecting, reporting, validating and tracking drug utilization on an ongoing basis. In addition, they require extensive advance planning and budgeting. We received comments during the comment period of the COD proposed rule, which requested that we delay the inclusion of the territories in the MDR program because the manufacturers and territories would need this additional time to implement provisions necessary to include territories in all aspects of the MDR program. We took these comments into consideration and in the final rule delayed the inclusion of the territories into the definitions of ''States'' and ''United States'' until 1 year after the effective date of the final rule (81 FR 5203, 5204), that is, beginning April 1, 2017. However, despite this 1-year delay, it became evident that we underestimated the timeline required, particularly in light of other demands on territorial systems development and the fact that the territories are at various stages of planning and development for these systems. While the U.S. territories have the ability to seek a waiver from the requirements that they would have to meet when classified as ''States'', doing so would impose some burdens on a territory, particularly for those territories that are not included in the broad waiver authority under section 1902(j) of the Act. Moreover, waivers under section 1115 of the Act are limited to requirements applicable to States or territories under section 1902(a) of the Act, and would not apply to the requirements placed on drug manufacturers that sell in the territories. These manufacturers cannot be waived from the section 1927 of the Act requirements under which manufacturers must include sales that take place in the U.S. territories when determining AMP and best price.

We heard from various stakeholders who reiterated many of the concerns that were summarized in the final rule (81 FR 5224) that drug manufacturers would likely be prompted to increase drug prices, including prices paid by U.S. territory Medicaid programs. This would result in the U.S. territories that receive a waiver realizing an increase in their Medicaid drug costs without the offsetting benefit of receiving Medicaid rebates. Furthermore, the increase in Medicaid costs could adversely impact territories because of their Medicaid funding cap. For these reasons, in the November 15, 2016 **Federal Register**, we published an interim final rule with comment period (IFC) (81 FR 80003) that amended the regulatory definitions of ''States'' and ''United States'' to include the U.S. territories beginning April 1, 2020 rather than April 1, 2017 (interim final rule).

C. Impracticability of Implementation by April 1, 2020

Based on further discussions with the U.S. territories since the publication of the interim final rule, we have learned that while the territories are making progress towards developing their Medicaid Management Information Systems (MMIS), only one territory would be prepared to implement the MDR program by April 1, 2020. In particular, Puerto Rico has been delayed in its development of the necessary components of the MMIS system due to the natural disasters experienced by the territory over the past 2 years, and has specifically requested another delay in the inclusion of U.S. territories in the definitions of ''States'' and ''United States''.[1]

We considered whether it would be feasible to delay the inclusion of U.S. territories in the definitions of ''States'' and ''United States'' for only those territories that are not prepared to implement the MDR program by April 1, 2020. However, since all five territories are referenced in each definition, the effect of a delay for only certain territories would possibly modify the previously finalized definitions rather than merely delay their effective dates. Additionally, a delay for only certain territories would only be feasible if we were also able to expressly permit manufacturers to continue treating sales to the territories not yet included in the definitions of ''States'' and ''United States'' as excluded from their calculations of AMP and best price. Such changes would require us to

[1] Angela M. Avila Marrero, Executive Director of Puerto Rico Health Insurance Administration (ASES for its acronym in Spanish) letter to John Coster, Director of the Division of Pharmacy, Disabled and Elderly Health Programs Group, Centers for Medicaid and CHIP Services, Centers for Medicare and Medicaid Services, March 21, 2019.

undertake full notice and comment rulemaking ahead of the April 1, 2020 effective date. As discussed in section III. of this IFC, we have determined that there is insufficient time to undertake full notice and comment rulemaking ahead of the April 1, 2020 effective date.

As discussed in section I.B. of this IFC, the U.S. territories have the ability to seek a waiver from the requirements that they would have to meet when classified as ''States'', but doing so would impose some burdens on a territory, and waivers under section 1115 of the Act are limited to requirements applicable to States or territories under section 1902(a) of the Act, and would not apply to the requirements placed on drug manufacturers that sell covered outpatient drugs in the territories. These manufacturers cannot be waived from the section 1927 of the Act requirements under which manufacturers must include sales that take place in the U.S. territories when determining AMP and best price. As stated previously, we heard from various stakeholders that drug manufacturers would likely be prompted to increase drug prices, including prices paid by U.S. territory Medicaid programs. While territories that need more time to prepare to implement the MDR program could seek the appropriate waiver, it would result in such territories realizing an increase in their Medicaid drug costs without the offsetting benefit of receiving Medicaid rebates.

II. Provisions of the Interim Final Rule With Comment Period

For the reasons discussed in section I.C. of this IFC, this IFC amends the regulatory definitions of ''States'' and ''United States'' under § 447.502 to include the U.S. territories (American Samoa, Northern Mariana Islands, Guam, Puerto Rico, and the Virgin Islands) beginning April 1, 2022 rather than April 1, 2020.

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed, and the terms and substances of the proposed rule or a description of the subjects and issues involved. This procedure can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued.

As discussed in sections I.B. and C. of this IFC, in light of the longer time frames needed by territories for planning, budgeting and developing systems necessary to implement the MDR program, the competing demand on system development resources, the long time frames for manufacturer pricing determinations, and particularly delays caused by the natural disasters experienced by Puerto Rico over the past 2 years, we believe it is necessary to provide territories and manufacturers with advance notice of any change in the timing for the inclusion of territories in the MDR program.

As previously stated, we considered whether it would be feasible to delay the inclusion of U.S. territories in the definitions of ''States'' and ''United States'' for only certain territories, but the effect of such a delay would possibly modify rather than merely delay the previously finalized definitions. Additionally, such a delay would only be feasible if we were to undertake full notice and comment rulemaking ahead of the April 1, 2020 effective date to expressly permit manufacturers to continue treating sales to the territories not yet included in the definitions of ''States'' and ''United States'' as excluded from their calculations of AMP and best price. We have determined that there is insufficient time to undertake full notice and comment rulemaking ahead of the April 1, 2020 effective date. Issuance of a proposed rule would be impracticable, and contrary to public interest such that a delay of the inclusion of U.S. territories in the definitions of ''States'' and ''United States'' would not become effective until after public comments are submitted, considered, and addressed in a final rule, which would not become effective until after the April 1, 2020 effective date.

Thus, we find good cause to waive the requirement for proposed rulemaking because the short time frame remaining before the inclusion of territories would otherwise take effect does not permit sufficient time to both undertake proposed rulemaking and provide the necessary advance notice for territories and manufacturers to meaningfully adjust planning and systems development to accommodate the revised timing. Furthermore, we find good cause to waive the requirement for proposed rulemaking because it would be contrary to public interest to delay notifying manufacturers of the change in the timing of the territorial inclusion in light of the potential that, absent sufficient advance notice, drug manufacturers may raise prices on drugs sold in the territories and thereby increase drug costs for both Medicaid and non-Medicaid consumers in the territories.

Therefore, we find good cause to waive the notice of proposed rulemaking and to issue this final rule on an interim basis. We are providing a 60-day public comment period.

IV. Collection of Information Requirements

This IFC further delays the inclusion of the U.S. territories in the regulatory definitions of ''States'' and ''United States'' under § 447.502 until beginning April 1, 2022. This delay does not impose any new or revised information collection requirements or burden. Consequently, there is no need for review of this action by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

V. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

VI. Regulatory Impact Statement

We have examined the impact of this IFC 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 Social Security 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). This rule does not reach the economic threshold of an annual effect

on the economy of $100 million or more and thus is not considered a major rule. To estimate the potential impact of this rule, we reviewed current levels of Medicaid prescription drug expenditures in the 5 U.S. territories with Medicaid programs. In 4 of the 5 territories, total prescription drug spending in fiscal year (FY) 2018 was about $29 million (American Samoa, Guam, Northern Mariana Islands, and the U.S. Virgin Islands) as reported in the CMS–64 financial management reports. In Puerto Rico, prescription drug spending was not reported separately. We estimated prescription drug spending by assuming that 17 percent of managed care expenditures went towards prescription drugs; 17 percent is consistent with our analysis of managed care expenditures on drugs in Medicaid and data from the Medicaid drug rebate data system. Using this assumption, we estimated that drug expenditures in Puerto Rico were about $366 million in FY 2018. In total, we estimate Medicaid drug spending in the 5 territories was about $395 million in FY 2018.

Using this estimate as a baseline for territory spending on prescription drugs in Medicaid, we believe delaying the inclusion of the territories in the definitions of ''States'' and ''United States'' does not reach the economic threshold of an annual effect on the economy of $100 million or more for the following reasons. First, while territory prescription drug expenditures after rebates may be lower once territories participate in the MDR Program, this effect may be partially offset by an increase in gross prices when manufacturers are required to report territory drug sales for Medicaid Best Price, and therefore the impact of a delay in territory participation in the MDR Program is expected to be modest.

Second, as a condition of joining the MDR Program the territories will be required to expand their drug coverage to include every COD of every manufacturer that has a National Drug Rebate Agreement (NDRA) with the Secretary of the Department of Health and Human Services. Currently, the territories have significantly more flexibility in establishing their own drug formularies and can choose which drugs of which manufacturers they will cover. We believe this may also lead to increased prescription drug spending and offsetting some portion of the reductions in net drug spending due to the rebates.

Third, given the varying sizes of the territories (in population), it is nearly impossible to claim that all territories will experience the same economic impact if they were to join the MDR program. For example, based on the information from the CMS–64 financial management reports American Samoa's drug spending represented 1 percent of its total Medicaid spending compared to the 21 percent in the U.S. Virgin Islands.

Due to limitations in the data from the territory Medicaid programs, we are unable to quantify these effects. However, we believe that it is likely the financial impact of extending the Medicaid drug rebates to territory programs is less than $100 million.

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

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 IFC will 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 a regulatory impact analysis 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 IFC will 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 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 proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts state law, or otherwise has federalism implications. 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 (January 30, 2017) requires that the costs associated with significant new regulations ''to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' This interim final rule's designation under E.O. 13771 will be informed by public comments received.

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

List of Subjects in 42 CFR Part 447

Accounting, Administrative practice and procedure, Drugs, Grant programs-health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV as set forth below:

PART 447—PAYMENTS FOR SERVICES

■ 1. The authority citation for part 447 is revised to read as follows:

Authority: 42 U.S.C. 1302 and 1396r–8.

■ 2. Section 447.502 is amended by revising the definitions of ''States'' and ''United States'' to read as follows:

§ 447.502 Definitions.

* * * * *

States means the 50 States and the District of Columbia and, beginning April 1, 2022, also includes the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, the Commonwealth of the Northern Mariana Islands and American Samoa.

United States means the 50 States and the District of Columbia and, beginning April 1, 2022, also includes the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, the Commonwealth of the Northern Mariana Islands and American Samoa.

* * * * *

Dated: October 31, 2019.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Dated: November 19, 2019.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2019–25514 Filed 11–21–19; 11:15 am]

BILLING CODE 4120–01–P

Proposed Rules

Federal Register
Vol. 84, No. 227
Monday, November 25, 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 AGRICULTURE

Rural Housing Service

7 CFR Part 3550

[Docket No. RHS–19–SFH–0020]

RIN 0575–AD14

Single Family Housing Direct Loan and Grant Programs

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Through this proposed rule, the Rural Housing Service (RHS or Agency) is proposing to amend its regulations to update and improve the direct Single-Family Housing (SFH) loans and grants programs. The proposed changes would increase program flexibility, allow more borrowers to access affordable loans, better align the programs with best practices, and enable the programs to be more responsive to economic conditions and trends.

DATES: Comments on the proposed rule must be received on or before January 24, 2020.

ADDRESSES: You may submit comments to this rule through the Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''Rural Housing Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select RHS–19–SFH–0020 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

All comments will be available for public inspection online at the Federal eRulemaking Portal (*http://www.regulations.gov*).

FOR FURTHER INFORMATION CONTACT: Andrea Birmingham, Finance and Loan Analyst, Single Family Housing Direct Loan Division, USDA Rural Development, STOP 0783, 1400 Independence Ave. SW, Washington, DC 20250–0783, Telephone: (202) 720–1489. Email: *andrea.birmingham@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background and Proposed Changes

In order to improve the delivery of the SFH loan programs and to promote consistency among the programs when appropriate, RHS is proposing to amend its regulations at 7 CFR part 3550 for the direct SFH loan and grant programs by:

(1) Revising and adding specific definitions to § 3550.10:

a. Revise the definition of modest housing, which currently prohibits in-ground swimming pools. The revised definition would allow for the financing of existing modest homes with pools. Existing housing stocks are very limited in many rural areas, and this is an unnecessary prohibition to homeownership when an otherwise modest and affordable home is typical for the area but cannot be financed because of a pool. The proposed change promotes a degree of consistency with the SFH guaranteed loan program, which does not prohibit in-ground swimming pools. In-ground pools with new construction, or with dwellings that are purchased new, would still be prohibited.

b. Remove the definition of national average area loan limit. This removal would complement changes proposed to § 3550.52(d)(6) in a separate rulemaking (83 FR 44504 (August 31, 2018)).

c. Revise the definition of the PITI ratio to include homeowner's association dues and other recurring, housing-related assessments. The change would reduce the risk of financing a property which may not be truly affordable to the homeowner. This risk occurs because of a PITI ratio which may be too low when recurring housing related costs such as mandatory homeowner's association dues and land lease payments are not taken into consideration during underwriting. This change would result in more accurately calculating the front end, PITI ratio for housing related costs; and in turn, calculating a more accurate Total Debt ratio on the back end. Calculating more accurate ratios will help ensure a loan amount is approved at an affordable level for the borrower.

d. Revise the veterans' preference definition to remove obsolete information and streamline the definition by citing the definition of a veteran or a family member of a deceased service member in 42 U.S.C. 1477.

e. Add definition for principal residence. The definition would align with that used in the SFH guaranteed loan program and the mortgage industry.

(2) Changing references § 3550.11(a) and (b) to ''homeowner education'' to ''homeownership education'' for consistency, and removing the requirement placed on State Directors to update the list of homeownership education providers annually. The Agency proposes to require State Directors to update the list on an as-needed basis, but no less frequently than every three years. The proposed rule also specifies that the Agency would determine preferences for education format (*i.e.,* online, in-person, telephone) based on effectiveness, availability and industry practice. The Agency would publish the education format preferences in a publicly available format, such as the program handbook. These changes would allow the Agency to be more responsive to changes in homeowner education course delivery and availability.

(3) Revising § 3550.52(a) to allow a new borrower to use new loan funds to purchase a dwelling from an existing RHS borrower. The current regulation requires the new borrower to assume the existing loan. Under the proposed revision, the Agency would determine if these transactions will be financed using an assumption of the existing RHS indebtedness or new loan funds, depending on funding levels as well as program goals and needs. This revision would allow the Agency to responsibly, effectively, and fully utilize funds appropriated by Congress without the additional steps required to process and close a loan assumption and subsequent new loan, thereby reducing loan application processing times.

(4) Revising the packaging fee requirements in § 3550.52(d)(6) to allow the Agency more flexibility to specify packaging fees for the non-certified loan application process, and to ensure non-

certified packaging fees reflect the level of service provided and the prevailing cost to provide the service.

For the non-certified loan packaging process, the current fee may not exceed $350, but this limit would be revised as it does not necessarily reflect the time a non-certified loan packager invests in the packaging process. Under the proposed revision, the packaging fees for the non-certified loan packaging process may not exceed a limit determined by the Agency and is no greater than one percent of the national average area loan limit. The Agency will determine the exact limit within the one percent threshold based on factors such as the level of service provided and the prevailing cost to provide the service and will publish the exact limit in a publicly available format such as the program handbook.

This rule also proposes to amend this paragraph to remove the language regarding a preliminary eligibility determination to streamline the process, and to clarify that the packaging fee is paid only if the loan closes.

(5) Revising § 3550.53(c) and removing (c)(1) through (3) to remove the overly restrictive primary residence requirements for military personnel and students. These requirements prohibit approving loans for active duty military applicants, unless they will be discharged within a reasonable period; and for full time students unless there are reasonable prospects that employment will be available in the area after graduation. Active duty military personnel and full-time students provide valuable service experience, education, and civic and financial contributions to rural areas. Providing these applicants with more opportunity to own modest, decent, safe, and sanitary homes in rural areas would strengthen the fabric of those communities. In addition, removing this overly restrictive language will improve consistency with other Federal housing programs such as the U.S. Department of Housing and Urban Development and the U.S. Department of Veterans Affairs.

(6) Revising § 3550.53(g) and removing § 3550.53(g)(1) through (5) to include the new definition of PITI for clarity; and to revise repayment ability ratio thresholds to use the same ratios for both low- and very-low income applicants (which will help ensure equal treatment of applicants across the income categories and improve the marketability of the program) and to increase the ratios by a small percentage to reflect common industry tolerances. This change, in conjunction with automated underwriting technology, will address risk layers and reduce the frequent requests for PITI ratio waivers due to compensating factors.

(7) Replacing ''homeowner'' with ''homeownership'' in § 3550.53(i)for consistency within part 3550.

(8) Revising § 3550.55(c) introductory text and (c)(4) and (5) so that application processing priorities are applied on a regular basis, and not just during periods of insufficient funding. Current regulations only trigger priorities in application processing when funding is insufficient. However, applying these priorities on a regular basis, not just during insufficient funding, will provide clear processing priorities for RHS staff. In the case of applications with equivalent priority status that are received on the same day, preference will be extended to applicants qualifying for a veterans' preference.

This proposed change recognizes that RHS has limited staff resources and that complete applications need to be prioritized for processing, as well as for funding when funds are limited. While the goal is to determine an applicant's eligibility for the program within 30 days of receiving a complete application regardless of their priority ranking and the availability of funds, the priority ranking will direct Agency staff how to prioritize their work processes and better meet urgent needs. The proposed amendment would also give fourth priority to applications submitted via an intermediary through the certified application packaging process outlined in § 3550.75. Currently, RHS may temporarily classify these applications as fourth priority when determined appropriate—the proposed change would make the fourth priority status permanent and applicable at all times. The change in priority does not impact the priority of any other category and will recognize and encourage the participation and interest of intermediaries in the direct SFH program. Intermediaries are valuable to the program by helping attract program applicants, training certified packagers, and performing quality assurance reviews of applications.

Other priorities remain unchanged including existing customers who request subsequent loans to correct health and safety hazards, loans related to the sale of REO property or ownership transfer of an existing RHS financed property, hardships including applicants living in deficient housing for more than six months, homeowners in danger of losing property through foreclosure, applicants constructing dwellings in an approved self-help project, and applicants obtaining other funds in an approved leveraging proposal. Veterans' preference also remains a priority in accordance with 42 U.S.C. 1477. To further emphasize these priorities, the Agency proposes to also make funding available in accordance with same priorities as application processing.

(9) Revising § 3550.56(b)(3) to remove the requirement that the value of the site must not exceed 30 percent of the ''as improved'' market value of the property. The site value is not necessarily an indicator of whether the property is modest. Other Agency requirements including area loan limits, appraisals, purchase agreements, and construction contracts are better indicators of whether the property is considered modest. Site values in high cost areas typically exceed the 30 percent threshold even in rural communities, and the frequent requests for waivers of this requirement impose an unnecessary administrative burden. This change would also be consistent with the guaranteed SFH loan program, which has no site value limitation.

(10) Amending § 3550.57(a) to remove the reference to in-ground swimming pools for existing housing under the Section 502 program, to align the paragraph with the revised modest housing definition in § 3550.10 of this proposed rule.

(11) Revising § 3550.59(a)(2) to remove the requirement that the amount of a junior lien, when it is a grant or a forgivable affordable housing product, may not exceed the market value by more than 5 percent (*i.e.* up to a 105% loan to value ratio). This is an overly restrictive requirement as it relates to grants and forgivable affordable housing products as these products often partially or completely cover the cost of rehabilitation to make the dwelling decent, safe, and sanitary, and a higher loan to value ratio may be tolerated in these instances.

Beginning in FY 2016, RHS initiated a pilot in a limited number of states to allow the State Office to approve leveraging arrangements where the total loan-to-value was more than the 105% limitation identified in § 3550.59(a)(2), provided:

- RHS is in the senior lien position and the RHS loan is fully secured (with allowable exceptions for the tax service fee, appraisal fee, homebuyer education and initial escrow for taxes and insurance);
- The junior lien is for an authorized loan purpose identified in § 3550.52;
- The junior lien involves a grant or forgivable affordable housing product; and
- The grant or forgivable affordable housing product comes from a

recognized grant source such as a Community Development Block Grant or a HOME Investment Partnerships Program (HOME).

The pilot has been successful because it has:

- Empowered the selected State Offices to make timely decisions on loans with junior liens involving a grant or forgivable affordable housing product, and gave the junior lien holder the discretion to determine a total loan-to-value that could be supported within their own program requirements;
- Generally improved an area's rural housing stock since the grants and forgivable affordable housing products are frequently used for rehabilitation work where the rehab cost is more than the enhanced value;
- Promoted consistency with the guaranteed SFH loan program, which states that junior liens by other parties are permitted if the junior liens do not adversely affect repayment ability or the security for the guaranteed loan; and
- Increased partnerships with nonprofits.

The proposed amendment would codify the positive aspects of the pilot so that the advantages will apply program wide.

(12) Revising § 3550.67(c) to allow more small Section 502 direct loans to be repaid in periods of up to 10 years. The current regulation states that only loans of $2,500 or less must not have a repayment period exceeding 10 years. In practice, loans of less than $7,500 are generally termed for 10 years or less so that the loan can be unsecured (*i.e.*, no mortgage or deed of trust is required) in accordance with the program's guidance.

This revision will provide the Agency flexibility in setting the dollar threshold for smaller loans which may have a repayment period that does not exceed 10 years. This threshold will be determined by the Agency and published in a publicly available format such as the program handbook and will not exceed ten percent of the national average area loan limit. The Agency will determine the threshold based on factors such as the Agency's level of tolerance for unsecured loans and the performance and collection of unsecured loans in the Agency's portfolio.

(13) Removing the language in § 3550.103(e) regarding a waiver of the requirement that applicants must be unable to obtain financial assistance at reasonable terms and conditions from non-RHS credit or grant sources and lack the personal resources to meet their needs. The regulation currently provides that this requirement may be waived if the household is experiencing medical expenses more than three percent of the household's income. The revision would remove the medical expense and waiver language. The authority to waive regulations on a case-by-case basis already exists in § 3550.8, making the medical expense and waiver language in § 3550.103(e) unnecessary. Furthermore, limiting the waiver of the requirement to only those instances in which medical expenses exceed 3 percent of the household's income is overly restrictive.

(14) Revising § 3550.104(c) to replace ''veterans preference'' with ''veterans' preference.'' This is a grammatical correction only.

(15) Revising § 3550.106(a) to remove the reference to in-ground swimming pools for the Section 504 program, to align the paragraph with the revised modest housing definition in § 3550.10 of this proposed rule.

(16) Revising § 3550.108(b)(1) to modify the requirement for title insurance and a closing agent for certain secured Section 504 loans of $7,500 and greater. Currently, Section 504 loans less than $7,500 may be closed by the Agency without title insurance and a closing agent; however, loans of $7,500 and greater require title insurance and must be closed by a closing agent. The cost for title insurance and a closing agent can be unaffordable for very-low income borrowers with loans of $7,500 and greater or can potentially decrease the amount of loan funds available for needed repairs or improvements. This revision would remove the specific dollar threshold for loans which would require title insurance and closing agent. Loans where the total section 504 indebtedness does not exceed an amount determined by the Agency, but no greater than twenty percent of the national average area loan limit, may be closed by the Agency without title insurance or a closing agent. The Agency will determine the maximum amount based on factors such as average costs for title insurance and closing agents compared to average housing repair costs and publish the specific threshold in a publicly available format such as the program handbook. This revision would significantly reduce loan closing costs incurred by the borrowers, by allowing more loans to be closed by the Rural Development office. This revision would also allow for responsiveness and adjustments based on inflationary changes.

(17) Revising § 3550.112(a) to revise the Section 504 maximum loan amount of $20,000, so that the sum of all outstanding section 504 loans to one borrower and for one dwelling may not exceed an amount determined by the Agency, but not greater than twenty percent of the national average area loan limit, and published in a publicly available format, such as the program handbook. The Agency will determine the maximum amount based on factors such as average loan amount and repair costs. A corresponding change will also be made to § 3550.112(a)(1) to address maximum loan amounts for transferees who assume Section 504 loans and wish to obtain a subsequent loan. The revision allows the Agency greater responsiveness and flexibility to address changes to average repair costs.

(18) Removing the lifetime maximum assistance of $7,500 for a Section 504 grant and allowing the Agency to apply a lifetime grant limit to any one household or one dwelling.

(19) Revising the Section 504 loan term requirements to specify that the loan term will be 20 years.

(20) Revising the recapture requirements in § 3550.162(b) to specify when Principal Reduction Attributable to Subsidy (PRAS) is, or is not, collected.

The direct loan program provides payment assistance (subsidy), which may include PRAS, to help borrowers meet their monthly mortgage loan obligations. At time of loan payoff), borrowers are required to repay all or a portion of the subsidy they received over the life of the loan. This is known as subsidy recapture. The amount of subsidy recapture to be repaid is based on a calculation that determines the amount of value appreciation (equity) the borrower has in the property at time of payoff. The proposed changes to the regulation specify when PRAS is collected. In cases where the borrower has no equity in the property based on the recapture calculation, PRAS will not be not collected. There are no changes to the current subsidy recapture calculation.

(21) Revising the payment moratorium requirements in § 3550.207 to require reamortization of each loan coming off a moratorium.

Currently, the regulation stipulates that at the end of a moratorium borrowers are to be provided a re-amortization if the Agency determines they can resume making scheduled payments, based on financial information provided by the borrower. Often these borrowers lack demonstrable repayment ability for the new installment, which then requires the Agency to liquidate the account. However, it should not be unexpected that a borrower may have difficulty demonstrating repayment ability at the end of a moratorium. The very purpose

of the moratorium is to provide temporary payment relief to borrowers who have experienced circumstances beyond their control such as the loss of at least 20 percent of their income, unexpected expenses from illness, injury, death in the family, etc.

In July 2010, due to the recession, the Administrator of RHS issued a decision memorandum approving the re-amortization of all accounts following a moratorium; this decision has been supported by subsequent Administrators. Historical data has shown that borrowers whose loans are re-amortized after a moratorium, regardless of repayment ability, have no greater risk of becoming delinquent when compared to non-moratorium borrowers whose loans were re-amortized.

When comparing the borrower's repayment history 18 months after the moratorium/re-amortization, 81.5 percent of the borrowers made their required monthly payment and avoided foreclosure, making this the best option for the borrower and the Agency. Whereas, if the borrower's repayment ability would have been considered, a large percentage of these successful borrowers would have lost their home without being given a chance to demonstrate their ability to repay their mortgage.

This revision would require reamortization after a moratorium regardless of repayment ability, which would reduce foreclosures and better serve borrowers.

The Agency is also clarifying that all or part of the interest accrued during the moratorium may be forgiven in an amount that balances affordability to the borrower and serving the best interest of the government.

(22) Revising § 3550.251(c) and (d) to remove obsolete references and clarify the process and priorities in the sale or lease of Real Estate Owned (REO) properties. The revision would also clarify the sale or lease process and reservation periods for priority buyers to comply with 42 U.S.C. 11408a.

Under 42 U.S.C. 11408a, RHS must lease or sell program and nonprogram inventory properties public agencies and nonprofits to provide transitional housing and to provide turnkey housing for tenants of such transitional housing and for eligible families. However, first priority is the sale of REO properties to Section 502 borrowers.

The proposed changes would further align § 3550.251(c) and (d) with 42 U.S.C. 11408a concerning the priority of the sale or lease of REO properties to eligible borrowers and to nonprofit organizations or public bodies providing transitional housing.

The proposed action will incorporate references to 42 U.S.C. 11408a and its more detailed instruction on transitional housing, lease and purchase procedures, and the employment or participation of homeless (or formerly homeless) individuals for the property being leased or acquired. To provide the maximum flexibility, the Agency will reserve program REO properties for no less than 30 days for sale to program eligible borrowers, as well as for sale or lease to a public agency or nonprofit organization for transitional and turnkey housing purposes. Upon receipt of written notification from a public agency or nonprofit organization seeking to purchase or lease REO property, the Agency shall withdraw the property from the market for not more than 30 days for the purpose of negotiations. If negotiations are unsuccessful, the REO property will be relisted and sold in the best interest of the Government.

The expected result of this rulemaking is to allow the maximum use of the REO properties and foster collaboration in working to address a national shortage of transitional housing, and to provide more flexibility and increased efficiency of REO property management.

Statutory Authority

Section 510(k) of Title V the Housing Act of 1949 (42 U.S.C. 1480(k)), as amended, authorizes the Secretary of Agriculture to promulgate rules and regulations as deemed necessary to carry out the purpose of that title.

Executive Order 12866

The Office of Management and Budget (OMB) has designated this rule as not significant under Executive Order 12866.

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Except where specified, all State and local laws and regulations that are in direct conflict with this rule will be preempted. Federal funds carry Federal requirements. No person is required to apply for funding under this program, but if they do apply and are selected for funding, they must comply with the requirements applicable to the Federal program funds. This rule is not retroactive. It will not affect agreements entered into prior to the effective date of the rule. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 must be exhausted.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effect of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Agency generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million, or more, in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1970, subpart A, ''Environmental Policies.'' It is the determination of the Agency that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, neither an Environmental Assessment nor an Environmental Impact Statement is required.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the undersigned has determined and certified by signature of this document that this rule, while affecting small

entities, will not have an adverse economic impact on small entities. This rule does not impose any significant new requirements on program recipients nor does it adversely impact proposed real estate transactions involving program recipients as the buyers.

Executive Order 12372, Intergovernmental Review of Federal Programs

This program/activity is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. (See the Notice related to 7 CFR part 3015, subpart V, at 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985.)

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements in the development of regulatory policies that have tribal implications or preempt tribal laws. RHS has determined that the proposed rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and the Indian tribes. Thus, this proposed rule is not subject to the requirements of Executive Order 13175.

Programs Affected

The following programs, which are listed in the Catalog of Federal Domestic Assistance, are affected by this proposed rule: Number 10.410, Very Low to Moderate Income Housing Loans (specifically Section 502 direct loans), and Number 10.417, Very Low-Income Housing Repair Loans and Grants (specifically the Section 504 direct loans and grants).

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection activities associated with this rule are covered under OMB Number: 0575–0172. This proposed rule contains no new reporting or recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995.

E-Government Act Compliance

RHS is committed to complying with the E-Government Act, 44 U.S.C. 3601 *et seq.*, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410;

(2) *Fax:* (202)690–7442; or

(3) *Email: program.intake@usda.gov.*

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List of Subjects in 7 CFR Part 3550

Administrative practice and procedure, Environmental impact statements, Fair housing, Grant programs—housing and community development, Housing, Loan programs—housing and community development, Low and moderate-income housing, Manufactured homes, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, 7 CFR part 3550 is proposed to be amended as follows:

PART 3550—DIRECT SINGLE FAMILY HOUSING LOANS AND GRANTS

■ 1. The authority citation for part 3550 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1480.

Subpart A—General

■ 2. Section 3550.10 is amended by:

■ a. Revising the definition of *Modest housing;*

■ b. Removing the definition of *National average loan limit;*

■ c. Revising the definition of *PITI ratio;*

■ d. Adding definition *Principal residence* in alphabetical order; and

■ e. Removing the definition of *Veterans preference* and adding the definition Veterans' preference in its place.

The revisions and additions read as follows:

§ 3550.10 Definitions.

* * * * *

Modest housing. A property that is considered modest for the area, has a market value that does not exceed the applicable maximum loan limit as established by RHS in accordance with § 3550.63, and not designed for income producing activities. Existing properties with in-ground pools may be considered modest; however, in-ground pools with new construction or with properties which are purchased new are prohibited.

* * * * *

PITI ratio. The amount paid by the borrower for principal, interest, taxes, insurance, and other recurring, housing related costs such as mandatory homeowner's association (HOA) dues, land lease payments (*i.e.* community land trusts), or other housing related assessments which may vary by state, divided by repayment income.

* * * * *

Principal residence. The home domicile physically occupied by the owner on a permanent basis (*i.e.* lives there for the majority of the year and is the address of record for such activities as Federal income tax reporting, voter registration, occupational licensing, etc.).

* * * * *

Veterans' preference. A preference extended to a veteran applying for a loan or grant under this part, or the families of deceased servicemen, who meet the criteria in 42 U.S.C. 1477.

* * * * *

■ 3. In § 3550.11, revise paragraphs (a) and (b) to read as follows:

§ 3550.11 State Director assessment of homeownership education.

(a) State Directors will assess the availability of certified homeownership education in their respective states on an as-needed basis but at a minimum every three years and maintain an updated listing of providers and their reasonable costs.

(b) The order of preference for homeownership education formats will be determined by the Agency based on factors such as industry practice and availability.

* * * * *

Subpart B—Section 502 Origination

■ 4. In § 3550.52, revise paragraphs (a) and (d)(6) to read as follows:

§ 3550.52 Loan Purposes.

* * * * *

(a) *Purchases from existing RHS borrowers.* To purchase a property currently financed by an RHS loan, the new borrower will assume the existing RHS indebtedness or receive new loan funds as determined by the Agency. The Agency will periodically determine whether assumptions or new loans are appropriate on a program wide basis based on the best interest of the government, taking into account factors such as funding availability and staff resources. Regardless of the method, loan funds may be used for eligible costs as defined in paragraph(d) of this section or to permit a remaining borrower to purchase the equity of a departing co-borrower.

* * * * *

(d) * * *

(6) Packaging fees resulting from the certified loan application packaging process outlined in § 3550.75. The Agency will determine the limit, based on factors such as the level of service provided and the prevailing cost to provide the service, and such cap will not exceed two percent of the national average area loan limit. Nominal packaging fees not resulting from the certified loan application process are an eligible cost provided the fee does not exceed a limit determined by the Agency based on the level and cost of service factors, but no greater than one percent of the national average area loan limit; the loan application packager is a nonprofit, tax exempt partner that received an exception to all or part of the requirements outlined in § 3550.75 from the applicable Rural Development State Director; and the packager gathers and submits the information needed for the Agency to determine if the applicant is eligible along with a fully completed and signed uniform residential loan application.

* * * * *

■ 5. In § 3550.53, revise paragraphs (c), (g), and (i) to read as follows:

§ 3550.53 Eligibility requirements.

* * * * *

(c) *Principal residence.* Applicants must agree to and have the ability to occupy the dwelling in accordance with the definition found in § 3550.10. If the dwelling is being constructed or renovated, an adult member of the household must be available to make inspections and authorize progress payments as the dwelling is constructed.

* * * * *

(g) *Repayment ability.* Repayment ability means applicants must demonstrate adequate and dependably available income. The determination of income dependability will include consideration of the applicant's history of annual income.

(1) An applicant is considered to have repayment ability when the monthly amount required for payment of principal, interest, taxes, insurance, homeowner's association (HOA) dues and other recurring, housing related assessments (PITI) does not exceed thirty-five percent of the applicant's repayment income (PITI ratio). In addition, the monthly amount required to pay PITI plus recurring monthly debts must not exceed forty-three percent of the applicant's repayment income (total debt ratio).

(2) If the applicant's PITI ratio and total debt ratio exceed the percentages specified by the Agency by a minimal amount, compensating factors may be considered. Examples of compensating factors include: Payment history (if applicant has historically paid a greater share of income for housing with the same income and debt level), savings history, job prospects, and adjustments for nontaxable income.

(3) If an applicant does not meet the repayment ability requirements in this paragraph (g), the applicant can have another party join the application as a cosigner, have other household members join the application, or both.

* * * * *

(i) *Homeownership education.* Applicants who are first-time homebuyers must agree to provide documentation, in the form of a completion certificate or letter from the provider, that a homeownership education course from a certified provider under § 3550.11 has been successfully completed as defined by the provider. Requests for exceptions to the homeownership education requirement in this paragraph (i) will be reviewed and granted on an individual case-by-case basis. The State Director may grant an exception to the homeownership education requirement for individuals in geographic areas within the State where the State Director verifies that certified homeownership education is not reasonably available in the local area in any of the formats listed in § 3550.11(b). Whether such homeownership education is reasonably available will be determined based on factors including, but not limited to: Distance, travel time, geographic obstacles, and cost. On a case-by-case basis, the State Director also may grant an exception, provided the applicant borrower documents a special need, such as a disability, that would unduly impede completing a homeownership course in a reasonably available format.

■ 6. In § 3550.55, revise paragraphs (c) introductory text and (c)(4) and (5) to read as follows:

§ 3550.55 Applications.

* * * * *

(c) *Selection for processing and funding.* Applications will be selected for processing using the priorities specified in this paragraph (c). Within priority categories, applications will be processed in the order that the completed applications are received. In the case of applications with equivalent priority status that are received on the same day, preference will first be extended to applicants qualifying for a veterans' preference. When funds are limited and eligible applicants will be placed on the waiting list, the priorities specified in this paragraph (c) will be used to determine the selection of applications for available funds.

* * * * *

(4) Fourth priority will be given to applicants seeking loans for the construction of dwellings in an RHS-approved Mutual Self-Help project, loan application packages funneled through an Agency-approved intermediary under the certified loan application packaging process, and loans that will leverage funding or financing from other sources at a level published in the program handbook.

(5) Applications from applicants who do not qualify for priority consideration in paragraph (1), (2), (3), or (4) of this section will be selected for processing after all applications with priority status have been processed.

* * * * *

§ 3550.56 [Amended]

■ 7. In § 3550.56:

■ a. Add the word ''and'' at the end of paragraph (b)(1);
■ b. Remove ''; and'' and add a period in its place in paragraph (b)(2); and
■ c. Remove paragraph (b)(3).
■ 8. In § 3550.57, revise paragraph (a) introductory text to reads as follows:

§ 3550.57 Dwelling requirements.

(a) *Modest dwelling.* The property must be one that is considered modest for the area, must not be designed for income producing purposes, or have a market value in excess of the applicable maximum loan limit, in accordance with § 3550.63, unless RHS authorizes an exception under this paragraph (a). Existing properties with in-ground pools may be considered modest; however, in-ground pools with new construction or with properties which are purchased new are prohibited. An exception may be granted on a case-by-case basis to accommodate the specific needs of an applicant, such as to serve exceptionally large households or to provide reasonable accommodation for a household member with a disability. Any additional loan amount approved must not exceed the amount required to address the specific need.

* * * * *

■ 9. In § 3550.59, revise paragraph (a)(2) to read as follows:

§ 3550.59 Security requirements.

* * * * *

(a) * * *

(2) No liens prior to the RHS mortgage exist at the time of closing and no junior liens are likely to be taken immediately after or at the time of closing, unless the other liens are taken as part of a leveraging strategy or the RHS loan is essential for repairs. Any lien senior to the RHS lien must secure an affordable non-RHS loan. Liens junior to the RHS lien may be allowed at loan closing if the junior lien will not interfere with the purpose or repayment of the RHS loan. When the junior lien involves a grant or a forgivable affordable housing product, the total debt may exceed the market value provided:

(i) The RHS loan is fully secured (with allowable exceptions for the tax service fee, appraisal fee, homebuyer education and initial escrow for taxes and insurance);

(ii) The junior lien is for an authorized loan purpose identified in § 3550.52; and

(iii) The grant or forgivable affordable housing product comes from a recognized grant source such as a Community Development Block Grant or a HOME Investment Partnerships Program (HOME).

* * * * *

■ 10. In § 3550.67, revise paragraph (c) to read as follows:

§ 3550.67 Repayment period.

* * * * *

(c) Ten years for loans not exceeding an amount determined by the Agency based on factors such as the performance of unsecured loans in the Agency's portfolio and the Agency's budgetary needs, but not to exceed ten percent of the national average area loan limit.

* * * * *

Subpart C—Section 504 Origination and Section 306C Water and Waste Disposal Grants

■ 11. In § 3550.103, revise paragraph (e) to read as follows:

§ 3550.103 Eligibility requirements.

* * * * *

(e) *Need and use of personal resources.* Applicants must be unable to obtain financial assistance at reasonable terms and conditions from non-RHS credit or grant sources and lack the personal resources to meet their needs. Elderly families must use any net family assets in excess of $20,000 to reduce their section 504 request. Non-elderly families must use any net family assets in excess of $15,000 to reduce their section 504 request. Applicants may contribute assets in excess of the aforementioned amounts to further reduce their request for assistance. The definition of assets for the purpose of this paragraph (e) is net family assets as described in § 3550.54, less the value of the dwelling and a minimum adequate site.

* * * * *

■ 12. In § 3550.104, revise paragraph (c) to read as follows:

§ 3550.104 Applications.

* * * * *

(c) *Processing priorities.* When funding is not sufficient to serve all eligible applicants, applications for assistance to remove health and safety hazards will receive priority for funding. In the case of applications with equivalent priority status that are received on the same day, preference will be extended to applicants qualifying for a veterans' preference. After selection for processing, requests for assistance are funded on a first-come, first-served basis.

■ 13. In § 3550.106, revise paragraph (a) to read as follows:

§ 3550.106 Dwelling requirements.

(a) *Modest dwelling.* The property must be one that is considered modest for the area, must not be designed for income producing purposes, or have a market value in excess of the applicable maximum loan limit, in accordance with § 3550.63.

* * * * *

■ 14. In § 3550.108, revise paragraph (b)(1) to read as follows:

§ 3550.108 Security requirements (loans only).

* * * * *

(b) * * *

(1) Loans where the total section 504 indebtedness does not exceed an amount determined by the Agency based on factors such as average costs for title insurance and closing agents compared to average housing repair costs, but no greater than twenty percent of the national average area loan limit.

* * * * *

■ 15. In § 3550.112, revise paragraphs (a) introductory text, (a)(1), and (c) to read as follows:

§ 3550.112 Maximum loan and grant.

(a) *Maximum loan permitted.* The sum of all outstanding section 504 loans to one household for one dwelling may not exceed an amount determined by the Agency based on factors such as average loan amounts and repair costs, but no greater than twenty percent of the national average area loan limit.

(1) Transferees who have assumed a section 504 loan and wish to obtain a subsequent section 504 loan are limited to the difference between the unpaid principal balance of the debt assumed and the maximum loan permitted.

* * * * *

(c) *Maximum grant.* The lifetime total of the grant assistance to any one household for one dwelling may not exceed an amount established by the Agency based factors such as average lifetime grant amounts and repair costs, but no greater than five percent of the national average area loan limit. No grant can be awarded when the household has repayment ability for a loan.

■ 16. In § 3550.113, revise paragraph (b) to read as follows:

§ 3550.113 Rates and terms (loans only).

* * * * *

(b) *Loan term.* The repayment period for all section 504 loans will be 20 years.

Subpart D—Regular Servicing

■ 17. In § 3550.162, revise paragraphs (b)(1) introductory text and (b)(1)(ii) to read as follows:

§ 3550.162 Recapture.

* * * * *

(b) * * *

(1) *General.* The amount to be recaptured is determined by a calculation specified in the borrower's subsidy repayment agreement and is based on the borrower's equity in the property at the time of loan pay off. If there is no equity based on the recapture calculation, the amount of principal reduction attributed to subsidy is not collected. The recapture calculation includes the amount of principal reduction attributed to subsidy plus the lesser of:

* * * * *

(ii) A portion of the value appreciation of the property subject to recapture. In order for the value appreciation to be calculated, the borrower will provide a current appraisal, including an appraisal for any capital improvements, or arm's length sales contract as evidence of market value upon Agency request. Appraisals must meet Agency standards under § 3550.62.

* * * * *

Subpart E—Special Servicing

■ 18. In § 3550.207, revise paragraphs (b)(2) and (c) and remove paragraph (d) to read as follows:

§ 3550.207 Payment moratorium.

* * * * *

(b) * * *

(2) At least 30 days before the moratorium is scheduled to expire, the borrower must provide financial information needed to process the re-amortization of the loan(s).

(c) *Resumption of scheduled payments.* When the moratorium expires or is cancelled, the loan will be re-amortized to include the amount deferred during the moratorium and the borrower will be required to escrow. If the new monthly payment, after consideration of the maximum amount of payment subsidy available to the borrower, exceeds the borrower's repayment ability, all or part of the interest that has accrued during the moratorium may be forgiven so that the new monthly payment optimizes both affordability to the borrower as well as the best interest of the Government.

Subpart F—Post-Servicing Actions

■ 19. In § 3550.251:

■ a. Revise paragraphs (c)(4) and (5);

■ b. Remove paragraph (C)(6);

■ c. Revise paragraph (d)(2);

■ d. Remove paragraph (d)(3);

■ e. Redesignate paragraph (d)(4) as (d)(3).

The revisions read as follows:

§ 3550.251 Property management and disposition.

* * * * *

(c) * * *

(4) *Sale of program REO properties.* For no less than 30 days after a program REO property is listed for sale, the property will be reserved for sale to eligible direct or guaranteed single family housing very-low, low- or moderate income applicants under this part or part 3555 of this title, and for sale or lease to nonprofit organizations or public bodies providing transitional housing and turnkey housing for tenants of such transitional housing in accordance with 42 U.S.C. 11408a. Offers from eligible direct or guaranteed single family housing applicants are evaluated at the listed price, not the offering price. Priority of offers received the same day from eligible direct or guaranteed single family housing applicants will be given to applicants qualifying for veterans' preference, cash offers from highest to lowest, then credit offers from highest to lowest. Acceptable offers of equal priority received on the same business day are selected by lot. After the expiration of a reservation period, REO properties can be bought by any buyer.

(5) *Sale by sealed bid or auction.* RHS may authorize the sale of an REO property by sealed bid or public auction when it is in the best interest of the Government.

(d) * * *

(2) RHS shall follow the standards and procedures in 42 U.S.C. 11408a for the sale or lease of an REO property to a public agency or nonprofit organization. The terms of the sale and lease, and the entity seeking to purchase or lease the REO property, must meet the requirements in 42 U.S.C. 11408a.

* * * * *

Bruce W. Lammers,

Administrator, Rural Housing Service.

[FR Doc. 2019–25128 Filed 11–22–19; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0799; Airspace Docket No. 19–AGL–13]

RIN 2120–AA66

Proposed Amendment of VHF Omnidirectional Range (VOR) Federal Airway V–71 and Area Navigation Route T–285 Due to the Decommissioning of the Winner, SD, VOR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend VHF Omnidirectional Range (VOR) Federal airway V–71 and area navigation (RNAV) route T–285. The FAA is proposing this action due to the planned decommissioning of the Winner, SD (ISD), VOR navigation aid (NAVAID). The Winner VOR is being decommissioned in support of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Comments must be received on or before January 9, 2020.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1 (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2019–0799; Airspace Docket No. 19–AGL–13 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email: *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Airspace Policy Group, Office of Airspace Services, Federal

Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the National Airspace System as necessary to preserve the safe and efficient flow of air traffic.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2019–0799; Airspace Docket No. 19–AGL–13) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2019–0799; Airspace Docket No. 19–AGL–13.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Central Service Center, Federal Aviation Administration, 10101 Hillwood Blvd., Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Background

The FAA is planning to decommission the Winner, SD (ISD), VOR in May 2020. The Winner VOR was one of the candidate VORs identified for discontinuance by the FAA's VOR MON program and listed in the Final policy statement notice, ''Provision of Navigation Services for the Next Generation Air Transportation System (NextGen) Transition to Performance-Based Navigation (PBN) (Plan for Establishing a VOR Minimum Operational Network),'' published in the **Federal Register** of July 26, 2016 (81 FR 48694), Docket No. FAA–2011–1082. The ATS routes effected by the Winner VOR decommissioning are VOR Federal airway V–71 and RNAV route T–285.

With the planned decommissioning of the Winner VOR, the remaining ground-based NAVAID coverage in the area is insufficient to enable the continuity of V–71 within the affected area. As such, the proposed modification to V–71 would result in a gap in the airway with the airway segments between the O'Neill, NE, VOR/Tactical Air Navigation (VORTAC) and the Pierre, SD, VORTAC NAVAIDs being removed.

To overcome the removal of the V–71 airway segments, the FAA plans to retain the current fixes located along those airway segments to assist pilots and air traffic controllers already familiar with them, for point-to-point navigation or radar vector purposes. Additionally, a new waypoint (LESNR) is being established overhead the Winner VOR location (within 60 feet) to retain that route point for navigation and radar vector purposes as well.

Further, the FAA proposes to retain T–285 as it is charted today by replacing the Winner VOR route point with the new LESNR waypoint. The minor adjustment of the LESNR waypoint overhead the Winner VOR location (within 60 feet) is expected to be transparent to pilots flying the RNAV route and not change the charted depiction of T–285.

Instrument flight rules (IFR) traffic could use the retained T–285 RNAV route, file point-to-point using the fixes and new LESNR waypoint that will remain in place, or receive air traffic control (ATC) radar vectors to continue operating through the affected area. Visual flight rules (VFR) pilots who elect to navigate via the airways through the affected area could also take advantage of the air traffic services previously listed.

A number of minor editorial corrections to the T–285 legal description are also proposed to comply with RNAV route description policy guidance. The editorial corrections do not change the route's structure, operational use, or charted depiction.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to amend VOR Federal airway V–71 and RNAV route T–285 due to the planned decommissioning of the Winner, SD, VOR. The proposed air traffic service (ATS) route actions are described below.

V–71: V–71 currently extends between the Fighting Tiger, LA, VORTAC and the Williston, ND, VOR/Distance Measuring Equipment (VOR/DME) NAVAIDs. The FAA proposes to remove the airway segment between the O'Neill, NE, VORTAC and the Pierre, SD, VORTAC. The unaffected portions of the existing airway would remain as charted.

T–285: T–285 currently extends between the North Platte, NE, VORTAC

and the Huron, SD, VORTAC NAVAIDs. The FAA proposes to retain the route by replacing the Winner, SD, VOR route point with the new LESNR waypoint being established overhead the Winner VOR location. Additionally, the Rapid City VORTAC ''RAP'' identifier and Huron VORTAC ''HON'' identifier are added to the first line of the route description and the geographic coordinates of each route point are updated to be expressed in degrees, minutes, seconds, and hundredths of a second. The existing route would remain as charted.

The NAVAID radials listed in the V–71 airway description below are unchanged and stated in True degrees.

VOR Federal airways are published in paragraph 6010(a) and RNAV T-routes are published in paragraph 6011 of FAA Order 7400.11D dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The ATS routes listed in this document would be subsequently published in the Order.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–71

From Fighting Tiger, LA; Natchez, MS; Monroe, LA; El Dorado, AR; Hot Springs, AR; INT Hot Springs 358° and Harrison, AR, 176° radials; Harrison; Springfield, MO; Butler, MO; Topeka, KS; Pawnee City, NE; INT Pawnee City 334° and Lincoln, NE, 146° radials; Lincoln; Columbus, NE; to O'Neill, NE. From Pierre, SD; Bismarck, ND; to Williston, ND.

* * * * *

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–285 North Platte, NE (LBF) to Huron, SD (HON)

North Platte, NE (LBF)	VORTAC	(Lat. 41°02′55.34″ N, long. 100°44′49.55″ W)
Thedford, NE (TDD)	VOR/DME	(Lat. 41°58′53.99″ N, long. 100°43′08.55″ W)
MARSS, NE	Fix	(Lat. 42°27′48.92″ N, long. 100°36′15.32″ W)
Valentine, NE (VTN)	NDB	(Lat. 42°51′41.85″ N, long. 100°32′58.73″ W)
LKOTA, SD	WP	(Lat. 43°15′28.00″ N, long. 100°03′14.00″ W)
LESNR, SD	WP	(Lat. 43°29′16.06″ N, long. 99°45′41.55″ W)
Huron, SD (HON)	VORTAC	(Lat. 44°26′24.30″ N, long. 98°18′39.89″ W)

* * * * *

Issued in Washington, DC, on November 18, 2019.

Rodger A. Dean Jr.,

Acting Manager, Airspace Policy Group.

[FR Doc. 2019–25293 Filed 11–22–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0815; Airspace Docket No. 19–ASW–8]

RIN 2120–AA66

Proposed Revocation, Amendment, and Establishment of Multiple Air Traffic Service (ATS) Routes Due to the Decommissioning of the Greene County, MS, VOR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to remove Jet Route J–590, amend VHF Omnidirectional Range (VOR) Federal airways V–11 and V–70, and establish area navigation (RNAV) routes T–362 and T–365. The FAA is proposing this action due to the planned decommissioning of the VOR portion of the Greene County, MS (GCV), VOR/Tactical Air Navigation (VORTAC) navigation aid (NAVAID). The Greene County VOR is being decommissioned in support of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Comments must be received on or before January 9, 2020.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1 (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No.

FAA–2019–0815; Airspace Docket No. 19–ASW–8 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email: *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the National Airspace System as necessary to preserve the safe and efficient flow of air traffic.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2019–0816; Airspace Docket No. 19–ASW–8) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2019–0815; Airspace Docket No. 19–ASW–8.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Central Service Center, Federal Aviation Administration, 10101 Hillwood Blvd., Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Background

The FAA is planning to decommission the Greene County, MS (GCV), VOR in May 2020. The Greene County VOR was one of the candidate VORs identified for discontinuance by the FAA's VOR MON program and listed in the Final policy statement notice, ''Provision of Navigation Services for the Next Generation Air Transportation System (NextGen) Transition to Performance-Based Navigation (PBN) (Plan for Establishing a VOR Minimum Operational Network),'' published in the **Federal Register** of July 26, 2016 (81 FR 48694), Docket No. FAA–2011–1082. The ATS routes effected by the Greene County VOR decommissioning are Jet Route J–590 and VOR Federal airways V–11 and V–70.

With the planned decommissioning of the Greene County VOR, the remaining ground-based NAVAID coverage in the area is insufficient to enable the continuity of J–590, V–11, or V–70 within the affected area. As such, the proposed action to J–590 would be to remove the route in its entirety; the proposed modification to V–11 would result in the airway segments between the Brookley, AL, VORTAC and Magnolia, MS, VORTAC being removed; and the proposed modification to V–70 would result in the airway segments between the Picayune, MS, VOR/Distance Measuring Equipment (VOR/DME) and Monroeville, AL, VORTAC being removed.

To overcome the removal of Jet Route J–590, instrument flight rules (IFR) traffic could use adjacent Jet Routes J–2 and J–138, as well as RNAV route Q–24 and existing fixes/waypoints that will remain in place, to circumnavigate the affected area.

To overcome the removal of the V–11 and V–70 airway segments, IFR traffic could use adjacent VOR Federal airways V–9, V–20, V–209, V–222, V–552, and V–555 to circumnavigate the affected areas. They could also file point to point through the area using the existing fixes that will remain in place or receive air traffic control (ATC) radar vectors to continue operating though the area. Visual flight rules (VFR) pilots who elect to navigate via the airways through the affected area could also take advantage of the air traffic services previously listed.

Further, the FAA proposes to establish two new RNAV routes, T–362 and T–365, to overlap the airway segments of V–11 and V–70 proposed to be removed. Additionally, T–362 would

extend beyond the V–70 airway segments being removed to include additional portions of the airway between the Fighting Tiger, LA, VORTAC and Picayune, MS, VOR/DME, and between the Monroeville, AL, VORTAC and Allendale, SC, VOR. The establishment of these two RNAV T-routes would not only provide additional mitigations to the V–11 and V–70 airway segments proposed for removal, but also support the FAA's Next Generation Air Transportation System (NextGen) efforts to modernize the National Airspace System (NAS) navigation system from a ground-based system to a satellite-based system.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to remove Jet Route J–590, amend VOR Federal airways V–11 and V–70, and establish RNAV routes T–362 and T–365 due to the planned decommissioning of the Greene County, MS, VOR. The proposed air traffic service (ATS) route actions are described below.

J–590: J–590 currently extends between the Lake Charles, LA, VORTAC and the Montgomery, AL, VORTAC. The FAA proposes to remove the jet route in its entirety.

V–11: V–11 currently extends between the Brookley, AL, VORTAC and the intersection of the Fort Wayne, IN, VORTAC 038° and Waterville, OH, VOR/Distance Measuring Equipment (VOR/DME) 273° radials (the EDGEE fix). In a separate NPRM, the FAA proposed to amend the EDGEE fix in the airway description to describe it as the intersection of the existing Fort Wayne VORTAC 038° radial and the Flag City, OH, VORTAC 308°(T)/310°(M) radial (84 FR 52049, October 1, 2019). The FAA now proposes to remove the airway segment between the Brookley, AL, VORTAC and the Magnolia, MS, VORTAC in this NPRM. The unaffected portions of the existing airway would remain as charted.

V–70: V–70 currently extends between the Monterrey, Mexico, VOR/DME and the Allendale, SC, VOR; and between the Grand Strand, SC, VORTAC and the Cofield, NC, VORTAC. The airspace within Mexico is excluded. The FAA proposes to remove the airway segment between the Picayune, MS, VOR/DME and the Monroeville, AL, VORTAC. The unaffected portions of the existing airway would remain as charted.

T–362: T–362 is a proposed new route that would extend between the Fighting Tiger, LA, VORTAC and the Allendale, SC, VOR. This T-route would mitigate the loss of the V–70 airway segment proposed to be removed and provide RNAV routing capability from the Baton Rouge, LA, area, eastward to the Allendale, SC, area.

T–365: T–365 is a proposed new route that would extend between the Brookley, AL, VORTAC and the Magnolia, MS, VORTAC. This T-route would mitigate the loss of the V–11 airway segment proposed to be removed and provide RNAV routing capability from the Mobile, AL, area, northwestward to the Jackson, MS, area.

All radials in the route descriptions below that do not reflect True (T)/Magnetic (M) degree radial information are unchanged and stated in True degrees.

Jet Routes are published in paragraph 2004, VOR Federal airways are published in paragraph 6010(a), and RNAV T-routes are published in paragraph 6011 of FAA Order 7400.11D dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The ATS routes listed in this document would be subsequently published in the Order.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

Paragraph 2004 Jet Routes.

* * * * *

J–590 [Removed]

* * * * *

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–11

From Magnolia, MS; Sidon, MS; Holly Springs, MS; Dyersburg, TN; Cunningham, KY; Pocket City, IN; Brickyard, IN; Marion, IN; Fort Wayne, IN; to INT Fort Wayne 038° and Flag City, OH, 308°(T)/310°(M) radials.

* * * * *

V–70

From Monterrey, Mexico; Brownsville, TX; INT Brownsville 338° and Corpus Christi, TX, 193° radials; 34 miles standard width, 37 miles 7 miles wide (4 miles E and 3 miles W of centerline), Corpus Christi; INT Corpus Christi 054° and Palacios, TX, 226° radials; Palacios; Scholes, TX; Sabine Pass, TX; Lake Charles, LA; Lafayette, LA; Fighting Tiger, LA; to Picayune, MS. From Monroeville, AL; INT Monroeville 073° and Eufaula, AL, 258° radials; Eufaula; Vienna, GA; to Allendale, SC. From Grand Strand, SC; Wilmington, NC; Kinston, NC; INT Kinston 050° and Cofield, NC, 186° radials; to Cofield. The airspace within Mexico is excluded.

* * * * *

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–362 Fighting Tiger, LA (LSU) to Allendale, SC (ALD)

Fighting Tiger, LA (LSU)	VORTAC	(Lat. 30°29′06.48″ N, long. 91°17′38.64″ W)
Picayune, MS (PCU)	VOR/DME	(Lat. 30°33′40.20″ N, long. 89°43′49.76″ W)
Green County, MS (GCV)	DME	(Lat. 31°05′52.66″ N, long. 88°29′10.06″ W)
Monroeville, AL (MVC)	VORTAC	(Lat. 31°27′33.57″ N, long. 87°21′09.14″ W)
CRENS, AL	WP	(Lat. 31°44′43.93″ N, long. 86°13′52.87″ W)
Eufaula, AL (EUF)	VORTAC	(Lat. 31°57′00.90″ N, long. 85°07′49.73″ W)
Vienna, GA (VNA)	VORTAC	(Lat. 32°12′48.39″ N, long. 83°29′50.12″ W)
KLICK, GA	WP	(Lat. 32°33′47.00″ N, long. 82°33′01.47″ W)
MILEN, GA	WP	(Lat. 32°54′02.88″ N, long. 81°36′33.99″ W)
Allendale, SC (ALD)	VOR	(Lat. 33°00′44.98″ N, long. 81°17′32.04″ W)

T–365 Brookley, AL (BFM) to Magnolia, MS (MHZ)

Brookley, AL (BFM)	VORTAC	(Lat. 30°36′45.80″ N, long. 88°03′19.78″ W)
Green County, MS (GCV)	DME	(Lat. 31°05′52.66″ N, long. 88°29′10.06″ W)
MIZZE, MS	WP	(Lat. 31°50′02.25″ N, long. 89°21′16.86″ W)
Magnolia, MS (MHZ)	VORTAC	(Lat. 32°26′02.65″ N, long. 90°05′59.18″ W)

Issued in Washington, DC, on November 18, 2019.

Rodger A. Dean Jr.,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2019–25295 Filed 11–22–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 150

[Docket No.: PTO–C–2017–0033]

RIN 0651–AD24

Removal of Regulations Governing Requests for Presidential Proclamations Under the Semiconductor Chip Protection Act of 1984 (SCPA) and Certain Rules of Practice Relating to Registration To Practice and Discipline

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: In accordance with Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' and Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' the United States Patent and Trademark Office (USPTO or Office) proposes to remove its regulations governing requests for Presidential Proclamations under the Semiconductor Chip Protection Act of 1984 (SCPA). In addition, this proposed rule would revise the rules of practice in patent cases to eliminate the requirement for handwritten personal signatures on correspondence relating to registration to practice before the Office, and other matters within the purview of the Office of Enrollment and Discipline (OED).

DATES: Written comments must be received on or before December 26, 2019.

ADDRESSES: Comments on the changes set forth in this proposed rulemaking should be sent by electronic mail message to: 2017–0033. *Comments@uspto.gov.* Comments may also be submitted by postal mail addressed to: Mail Stop OPIA, USPTO, P.O. Box 1450, Alexandria, VA 22313–1450, ATTN: Docket No. PTO–C–2017–0033. Comments concerning ideas to improve, revise, and streamline other USPTO regulations, not discussed in this proposed rulemaking, should be submitted to: *RegulatoryReformGroup@uspto.gov.*

Comments may also be submitted via the Federal eRulemaking Portal at *http://www.regulations.gov.* See the Federal eRulemaking Portal website for additional instructions on providing comments via the Federal eRulemaking Portal.

Although comments may be submitted by postal mail, the Office prefers to receive comments by electronic mail message over the internet because the Office may easily share such comments with the public. Electronic comments are preferred to be submitted in plain text, but also may be submitted in ADOBE® portable document format or MICROSOFT WORD® format. Comments not submitted electronically should be submitted on paper in a format that facilitates convenient digital scanning into ADOBE® portable document format.

The comments will be available for public inspection at the Office of Policy and International Affairs, currently located in Madison East, 600 Dulany Street, Alexandria, Virginia. Comments also will be available for viewing via the Office's internet website (*http://www.uspto.gov*) and at *http://www.regulations.gov.* Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: For questions on the changes to 37 CFR part 1, contact Howard Reitz at (571) 272–4097. For questions on changes to 37 CFR part 150, please contact Darren Pogoda at (571) 272–5519.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' the Department of Commerce established a Regulatory Reform Task Force (Task Force), comprising, among others, agency officials from the National Oceanic and Atmospheric Administration, the Bureau of Industry and Security, and the USPTO, and charged the Task Force with evaluating existing regulations and identifying those that should be repealed, replaced, or modified because they are potentially outdated, unnecessary, ineffective, costly, or unduly burdensome to both government and private sector operations.

To support its regulatory reform efforts on the Task Force, the USPTO assembled a Working Group on Regulatory Reform (Working Group)—consisting of subject-matter experts from each of the business units that implement the USPTO's regulations—to consider, review, and recommend ways that the regulations could be improved, revised, and streamlined. The Working Group reviewed existing regulations, both discretionary and required by statute or judicial order. The USPTO also solicited comments from stakeholders through a web page established to provide information on the USPTO's regulatory reform efforts, and through the Department's **Federal Register** Notice titled ''Impact of Federal Regulations on Domestic Manufacturing'' (82 FR 12786, Mar. 7, 2017), which addressed the impact of regulatory burdens on domestic manufacturing. These efforts led to the development of candidate regulations for removal based on the USPTO's assessment that these regulations were

not needed and/or that elimination could improve the USPTO's body of regulations. To facilitate review and public comment, the USPTO consolidates and proposes in this rule revisions to those regulations relating to requests for Presidential Proclamations under the Semiconductor Chip Protection Act of 1984 (SCPA) under 37 CFR part 150 and regulations governing the rules of practice in patent cases under 37 CFR part 1. Other proposals to remove regulations on other subject areas may be published separately.

II. Regulations Proposed for Removal

This proposed rule would remove the regulations concerning requests for Presidential Proclamations under the SCPA, 37 CFR part 150, specifically, the following sections: § 150.1 Definitions; § 150.2 Initiation of evaluation; § 150.3 Submission of requests; § 150.4 Evaluation; § 150.5 Duration of proclamation; and § 150.6 Mailing address.

These regulations establish procedures by which protection of semiconductor chips, under Title 17, may be extended to nationals, domiciliaries, and sovereign authorities of foreign nations. Part 150 sets forth the avenue for foreign governments and related parties to request, through the Secretary of Commerce, a Presidential Proclamation regarding the scope of protection for semiconductor chips, pursuant to the Semiconductor Chip Protection Act of 1984 (17 U.S.C. 901–914) and Executive Order 12504. Part 150 also addresses the Secretary of Commerce's now-expired authority to issue orders extending interim protection to foreign owners of semiconductor chips upon the satisfaction of certain conditions.

As the desire to protect semiconductor chips under Title 17 has steadily diminished over time, and as most nations are already covered by President Proclamation 6780 (which indicated that once the TRIPS Agreement became effective, all WTO members would become eligible for full protection under chapter 9 of title 17, United States Code), there have been no recent requests made pursuant to the regulations. If these regulations are removed, it would still be possible for a foreign government or related party to file a request regarding a Presidential Proclamation. Given the diminished practical relevance of semiconductor chip protection and the existence of President Proclamation 6780, the USPTO expects such requests to be very rare.

This proposed rule would also remove 37 CFR 1.4(e)(1), which requires handwritten personal signatures in dark ink on correspondence relating to registration to practice before the Office, and other matters within the purview of the OED. Elimination of this provision would allow, for example, the use of facsimile transmissions and S-signatures in enrollment and disciplinary matters before the OED. Elimination of this provision would also facilitate implementation of an electronic filing system within the OED.

The regulations proposed in this rule for removal and cost-savings achieve the objective of making the USPTO's regulations more effective and less burdensome, while enabling the USPTO to fulfill its mission goals. The USPTO's economic analysis shows that even though removal of these regulations is not expected to substantially reduce the burden on the impacted community, the regulations are nonetheless being eliminated because they are ''outdated, unnecessary, or ineffective'' regulations encompassed by the directives in Executive Order 13777.

III. Discussion of Proposed Rules Changes

The proposed rule would remove and reserve part 150 of 37 CFR. In removing part 150, the following sections will be removed and reserved: § 150.1 Definitions, which sets forth the meaning of terms of art regarding requests for Presidential Proclamations under the SCPA; § 150.2 Initiation of evaluation, which sets forth the manner by which the Under Secretary of Commerce for Intellectual Property and Director of the USPTO may initiate an evaluation of the propriety of recommending the issuance of a Presidential Proclamations under the SCPA; § 150.3 Submission of requests, which sets forth the form and manner by which foreign governments may request the issuance of a Presidential Proclamations under the SCPA; § 150.4 Evaluation, which sets forth the manner by which the Under Secretary of Commerce for Intellectual Property and Director of the USPTO was previously authorized to evaluate requests for orders extending interim protection to foreign owners of semiconductor chips, the manner by which it may evaluate requests regarding the issuance or revocation of a Presidential Proclamation under the SCPA, and the manner by which it may forward a recommendation regarding the issuance of a proclamation to the President; § 150.5 Duration of proclamation, which sets forth the manner by which the Under Secretary of Commerce for Intellectual Property and Director of the USPTO may recommend the inclusion of terms and conditions on the duration of, or revocation of, a proclamation; and § 150.6 Mailing address, which sets forth the address to be used for all requests and correspondence for requests for Presidential Proclamations under the SCPA.

The proposed rule would also remove and reserve 37 CFR 1.4(e)(1), which sets forth certain correspondence and signature requirements.

Rulemaking Considerations

A. *Administrative Procedure Act:* The changes in this proposed rulemaking involve rules of agency practice and procedure, and/or interpretive rules. *See Perez* v. *Mortg. Bankers Ass'n,* 135 S. Ct. 1199, 1204 (2015) (Interpretive rules ''advise the public of the agency's construction of the statutes and rules which it administers.'' (citation and internal quotation marks omitted)); *Nat'l Org. of Veterans' Advocates* v. *Sec'y of Veterans Affairs,* 260 F.3d 1365, 1375 (Fed. Cir. 2001) (Rule that clarifies interpretation of a statute is interpretive.); *Bachow Commc'ns Inc.* v. *FCC,* 237 F.3d 683, 690 (D.C. Cir. 2001) (Rules governing an application process are procedural under the Administrative Procedure Act.); *Inova Alexandria Hosp.* v. *Shalala,* 244 F.3d 342, 350 (4th Cir. 2001) (Rules for handling appeals were procedural where they did not change the substantive standard for reviewing claims.).

Accordingly, prior notice and opportunity for public comment for the changes in this proposed rulemaking are not required pursuant to 5 U.S.C. 553(b) or (c), or any other law. *See Perez,* 135 S. Ct. at 1206 (Notice-and-comment procedures are required neither when an agency ''issue[s] an initial interpretive rule'' nor ''when it amends or repeals that interpretive rule.''); *Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), does not require notice and comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'' (quoting 5 U.S.C. 553(b)(A))). The Office, however, is publishing these proposed changes for comment as it seeks the benefit of the public's views on the Office's proposed implementation of the proposed rule changes.

B. *Regulatory Flexibility Act:* For the reasons set forth herein, the Senior Counsel for Regulatory and Legislative Affairs, Office of General Law, of the USPTO has certified to the Chief Counsel for Advocacy of the Small Business Administration that changes proposed in this notice will not have a

significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b).

This proposed rule would remove regulations governing the procedures by which protection of semiconductor chips, under Title 17, may be extended to nationals, domiciliaries, and sovereign authorities of foreign nations because they are not necessary. Part 150 sets forth the avenue for foreign governments and related parties to request, through the Secretary of Commerce, a Presidential Proclamation regarding the scope of protection for semiconductor chips, pursuant to the Semiconductor Chip Protection Act of 1984 (17 U.S.C. 901–914) and Executive Order 12504. Part 150 also addresses the Secretary of Commerce's now-expired authority to issue orders extending interim protection to foreign owners of semiconductor chips upon the satisfaction of certain conditions.

These regulations are proposed to be removed because there has been a steady decline in requests, and no recent requests, received by the USPTO to protect semiconductor chips under Title 17. The removal of these regulations is not expected to substantively impact regulated entities as it would still be possible for a foreign government or related party to file a request regarding a Presidential Proclamation without the regulations.

This proposed rule would also remove 37 CFR 1.4(e)(1), which requires handwritten personal signatures in dark ink on correspondence relating to registration to practice before the Office, and other matters in the purview of the OED. Elimination of this provision would allow, for example, the use of facsimile transmissions and S-signatures in enrollment and disciplinary matters before the OED, thereby providing a modest benefit to impacted parties. For these reasons, this rulemaking will not have a significant economic impact on a substantial number of small entities.

C. *Executive Order 12866 (Regulatory Planning and Review):* This rulemaking has been determined to be not significant for purposes of Executive Order 12866.

D. *Executive Order 13563 (Improving Regulation and Regulatory Review):* The Office has complied with Executive Order 13563. Specifically, the Office has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector and the public as a whole, and provided on-line access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. *Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs):* This proposed rule is expected to be an Executive Order 13771 deregulatory action.

F. *Executive Order 13132 (Federalism):* This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

G. *Executive Order 13175 (Tribal Consultation):* This rulemaking will not: (1) Have substantial direct effects on one or more Indian tribes; (2) impose substantial direct compliance costs on Indian tribal governments; or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

H. *Executive Order 13211 (Energy Effects):* This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

I. *Executive Order 12988 (Civil Justice Reform):* This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

J. *Executive Order 13045 (Protection of Children):* This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

K. *Executive Order 12630 (Taking of Private Property):* This rulemaking will not affect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

L. *Congressional Review Act:* Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), prior to issuing any final rule, the USPTO will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this notice are not expected to result in an annual effect on the economy of 100 million dollars or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this notice is not expected to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

M. *Unfunded Mandates Reform Act of 1995:* The changes set forth in this notice do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

N. *National Environmental Policy Act:* This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

O. *National Technology Transfer and Advancement Act:* The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions that involve the use of technical standards.

P. *Paperwork Reduction Act:* The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires that the Office consider the impact of paperwork and other information collection burdens imposed on the public. This rulemaking involves information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3549). The information collections affected are 0651–0012 and 0651–0017.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Biologics, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

37 CFR Part 150

Administrative practice and procedure, Computer technology, Foreign relations, Proclamations, Science and technology, Semiconductor chip products.

For the reasons stated in the preamble, the USPTO proposes to amend chapter 1 of title 37 as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

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

Authority: 35 U.S.C. 2(b)(2), unless otherwise noted.

§ 1.4 [Amended]

■ 2. Section 1.4 is amended by removing and reserving paragraph (e)(1).

PART 150—[Removed and Reserved]

■ 3. Under the authority of 35 U.S.C. 2(b)(2), part 150, consisting of §§ 150.1 through 150.6, is removed and reserved.

Dated: November 7, 2019.

Andrei Iancu,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2019–24825 Filed 11–22–19; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2019–0477; FRL–10002–35–Region 7]

Air Plan Approval; Iowa; Linn County; State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Iowa State Implementation Plan (SIP) to include recent changes to the Linn County Code of Ordinances. The revisions include updating definitions and references to the effective dates the Federal rules were approved into the State's SIP, revising methods and procedures for performance test/stack test and continuous monitoring systems, and updating the Linn County permits program. These revisions will not adversely impact air quality and will ensure consistency between the state and federally approved rules.

DATES: Comments must be received on or before December 26, 2019.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2019–0477 to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

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

FOR FURTHER INFORMATION CONTACT: Stephanie Doolan, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7719; email address *doolan.stephanie@epa.gov.*

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

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I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2019–0477 at *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. What is being addressed in this document?

The EPA is proposing to approve a submission from the State of Iowa to revise its SIP to incorporate recent updates to Chapter 10 of Linn County's Code of Regulation pertaining to air quality. The Clean Air Act (CAA) allows authorized states to delegate portions of the Act's implementation and enforcement to local governments such as Linn County. The revisions to the Iowa SIP incorporate Linn County's updated definitions and references to the effective dates of Federal rules approved into the State's SIP, renumbering, revising methods and procedures for performance test/stack test and continuous monitoring systems, and revising the public notice and participation requirements to allow permit modifications to be published online rather than in area newspapers which is consistent with recent revisions to Iowa's SIP (83 FR 191, October 2, 2018). Linn County also added provisions to codify its existing policy and procedures for appealing permits which is proposed for approval into the Iowa SIP.

The EPA is not acting on portions of Linn County Chapter 10–58, Permits for New and Existing Stationary Sources, and Chapter 10–59, Permit Fees, that pertain to Prevention of Significant Deterioration (PSD) regulations because Iowa has not delegated the PSD program authority to Linn County. The EPA is also not acting on the revisions to Chapter 10–67, Excess Emissions at this time.

III. What SIP revisions are being proposed by the EPA?

The EPA is proposing approval of the revisions to the Iowa SIP to incorporate revisions to Chapter 10 of the Linn County Code of Ordinances listed

below. If a subchapter is not listed below, the only change is its number. A Technical Support Document (TSD) with a detailed description of the proposed revisions and the rationale for approval has been prepared by the EPA and is provided in the docket for this proposed action.

Linn County subchapters have been renumbered and in some cases renamed. The TSD, included in the docket, provides a cross-reference to the former subchapter number and/or name. Renumbering and renaming has no impact on air quality thus EPA proposes to approve these revisions into the Iowa SIP.

Chapter 10–54, Purpose and Ambient Air Quality Standards. The ordinance revisions update the effective dates and remove a reference to new source permitting provisions in Chapter 10–58. The ordinance revisions are administrative updates that do not negatively impact air quality and ensure greater consistency with the Iowa regulations.

Chapter 10–55, Definitions. The definitions for ''EPA reference method'' and ''Volatile Organic Compound'' have been revised to reference the most recent Federal rule approved in the Iowa SIP, which is amended through August 30, 2016. These definitions are consistent with the state and Federal rules. As such, the EPA proposes to approve them into the Iowa SIP.

Chapter 10–57, Title V Permits. This chapter was revised to exclude ''and Voluntary'' from its title and to eliminate former paragraph 2, Voluntary Operating Permits. Since the provision for voluntary operating permits is removed from the Linn County Code of Ordinances EPA concurs with its removal from the SIP. There are no impacts to air quality from these revisions.

Chapter 10–58, Permits for New and Existing Stationary Sources. The revisions to Chapter 10–58 include provisions in paragraph (b)(2)(h), Authorization to install permit applications, the requirement to submit an application for a case-by-case Maximum Achievable Control Technology (MACT) determination, revisions to public notice and participation requirements, and exemptions regarding fuel burning equipment. The EPA proposes to approve the provisions of Chapter 10–58 (b)(2)(h) allowing for a case-by-case MACT determination because the definitions upon which this paragraph relies for ''MACT'' and ''MACT floor'' are equivalent to the definitions in Iowa Code that EPA has already approved into the SIP. The EPA also proposes to approve the revisions to paragraphs (K)(1) and (2) regarding exemptions for fuel-burning equipment because these local air quality rules are the same or more stringent that the corresponding Iowa code.

Linn County ordinances have been revised to be consistent with revisions made by the State to address public participation requirements for the PSD program to reflect updates to the Federal regulations, at 40 CFR part 51, subpart I, published October 18, 2016. Consistent with the Iowa SIP revision approved by EPA on October 2, 2018 (83 FR 191), the Linn County code revision removes the requirements for advertisement in a newspaper of general circulation in each region in which the proposed source will be constructed, and provides for posting of the public comment period on a website identified by the county. The electronic notice shall be available for the duration of the public comment period and include the notice of public comment, the draft permit(s), information on how to access the administrative record for the draft permit(s), and how to request or attend a public hearing on the draft permit(s). Because this Linn County code revision is consistent with the EPA's previous SIP approval, for the same reasons stated in the previous approval, the EPA proposes to approve it into the Iowa SIP.

Chapter 10–59, Permit Fees. Based on an email from Iowa Department of Natural Resources (IDNR) to the EPA dated July 9, 2018, which is provided in the docket, it requests removal of fees associated with PSD permit applications and all references to fees in the Linn County SIP submittal. Thus, the EPA is not proposing to approve portions of the Linn County ordinance revisions that reference PSD permitting fees.

Chapter 10–61, Emissions from Fuel-Burning Equipment. The revisions to the ordinance include a corrected reference to Chapter 10–62, and a revision of a paragraph number. The EPA proposes to approve these minor editorial revisions into the SIP because there is no adverse impact to air quality.

Chapter 10–62, Emissions Standards. Revisions to the chapter include updated references to dates of corresponding Federal rule updates, the addition of the word ''dry'' to ''standard cubic foot of exhaust gas,'' removal of specific sources from New Source Performance Standards (NSPS), addition of Nitric Acid Plants to NSPS regulation, removal of beryllium sources and Arsenic Glass Manufacturing Plants from regulation under National Emission Standards for Hazardous Air Pollutants (NESHAPs), and removal of a number of major sources of Hazardous Air Pollutants (HAPs) from its codes. The EPA proposes to approve the removal of the source types deleted from Linn County code because there are no regulated source types of these HAPs or processes currently in the state, nor are any anticipated to be permitted or contructed. Regarding the addition of the regulations for Nitric Acid Plants, the EPA proposes to approve these changes into Iowa's SIP because the Linn County code is consistent and at least as stringent as Federal and state regulations. The EPA will not act on revisions to Linn County code paragraphs (b), NSPS, (c), Emission Standards for Hazardous Air Pollutants, and (d), Emission Standards for Hazardous Air Pollutants for Source Categories, because these regulations are approved as Iowa delegations.

Chapter 10–63, Open Burning. The Linn County code includes a clarification of the amount of time open burning is authorized, eliminating the 30-day minimum. The EPA proposes to approve this revision into the Iowa SIP because this clarification does not pose a negative impact to air quality.

Chapter 10–65, Sulfur Compounds. Linn County revised the numbering of the first paragraph to ''(a).'' The EPA proposes to approve this minor editorial change into the Iowa SIP.

Chapter 10–67, Excess Emissions. The EPA does not intend to approve the revisions to this chapter in this action.

Chapter 10–69, Circumvention. The only revision in this subchapter is the renumbering of the first paragraph. Thus, the EPA proposes to approve this editorial revision into the Iowa SIP.

Chapter 10–70, Testing and Sampling of New and Existing Equipment. Linn County revised its references to the most recent Federal rule approved in the Iowa SIP, which is amended through August 30, 2016. The EPA proposes to approve these updated references into the Iowa SIP. The EPA does not propose to approve paragraph (k), Continuous Emission Monitoring Under the Acid Rain Program, because it has not previously been approved into the Iowa SIP.

Chapter 10–74, Prevention of Air Pollution Emergency Episodes. Revisions to this subchapter consist of editorial changes and revisions to the level of ozone triggering an alert. EPA proposes to approve these revisions into the Iowa SIP because they do not negatively impact air quality.

Chapter 10–75, Enforcement. The only revision to the Linn County code is renumbering the first paragraph to ''a.'' Thus, the EPA proposes to approve this minor change into the Iowa SIP.

Chapter 10–76, Sealing. The only revision to the Linn County code is renumbering the first paragraph to ''a.'' Thus, the EPA proposes to approve this minor change into the Iowa SIP.

In addition to the ordinance revisions listed above, the state also requested the EPA approve the definitions of ''MACT'' and ''MACT floor'' into its SIP. These definitions were initially submitted by Iowa to the EPA on August 30, 2012, but were inadvertently omitted from previous Linn County SIP revisions. The definitions are identical to or more stringent than the parallel definitions in the Iowa Administrative Code that the EPA has previously approved. Thus, the EPA proposes approval of these definitions into the SIP for greater consistency between the state and local regulations.

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

The submission met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. Linn County held a public comment period from April 24, 2018, to May 23, 2018. No comments were received. The Linn County Board of Supervisors adopted the revisions into its air quality ordinance on May 30, 2018. The effective date was June 5, 2018. The submission also satisfies the completeness criteria of 40 CFR part 51, appendix V. In addition, these revisions meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations. These revisions are also consistent with applicable EPA requirements of Title V of the CAA and 40 CFR part 70.

V. What actions are proposed?

The EPA is proposing to approve revisions to the Iowa SIP to incorporate the revisions to Chapter 10 of the Linn County Code of Ordinances. The proposed revisions clarify rules, make revisions and corrections, and rescind rules no longer relevant to the air program. The EPA has determined that approval of these revisions will not adversely impact air quality and will ensure consistency between the local, state and federally-approved rules, and ensure Federal enforceability of the state's revised air program rules.

VI. Incorporation by Reference

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

VII. Statutory and Executive Order Reviews

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

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

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

List of Subjects

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

Dated: November 15, 2019.

James Gulliford,

Regional Administrator, Region 7.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart Q—Iowa

■ 2. In § 52.820, the table in paragraph (c) is amended by revising the entry ''Chapter 10'' to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED IOWA REGULATIONS

Iowa citation	Title	State effective date	EPA approval date	Explanation
Iowa Department of Natural Resources Environmental Protection Commission [567]				
*	*	*	*	* * *
Linn County				
Chapter 10	Linn County Air Quality Ordinance, Chapter 10.	6/5/2018	[Date of publication of the final rule in the **Federal Register**], [**Federal Register** citation of the final rule].	The following definitions are not SIP-approved in Chapter 10–55; Anaerobic lagoon, Biomass, Chemical processing plants (ethanol production facilities that produce ethanol by natural fermentation included in NAICS code 325193 or 312140 are not included in this definition); Federally Enforceable; Greenhouse gases; The following sections are not SIP approved: 10–57(a), Title V Permits; 10–59(c), Fees Associated with PSD Applications; 10–61, Emissions From Fuel-Burning Equipment, (c) Exemptions for Residential Heaters Burning Solid Fuels; 10–61, Emissions from Fuel-Burning Equipment, (d) Nuisance Conditions for Fuel Burning Equipment; 10–62, Emission Standards, (b) NSPS; 10–62(c), Emission Standards for HAPs; 10–62(d), Emission Standards for HAPs for Source Categories; 10–64, Emission of Objectionable Odors; 10–70, Testing and Sampling of New and Existing Equipment, (k) Continuous Emissions Monitoring from Acid Rain Program; and 10–77, Penalty.
*	*	*	*	* * *

* * * * *

[FR Doc. 2019–25265 Filed 11–22–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2019–0270; FRL–10002–45–Region 4]

Air Plan Approval; Tennessee: Open Burning and Definitions Revisions for Chattanooga

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Chattanooga portion of the Tennessee State Implementation Plan (SIP), provided by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC) from the Chattanooga/Hamilton County Air Pollution Control Bureau through a letter dated September 12, 2018. The submission revises the open burning regulations in the Chattanooga portion of the Tennessee SIP. EPA is proposing to approve the changes because they are consistent with the Clean Air Act (CAA or Act) and is also proposing to clarify its prior proposal related to the Bureau's definition of ''volatile organic compounds.''

DATES: Comments must be received on or before December 26, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2019–0270 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Air Regulatory Management Section, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Mr. Lakeman can be reached by telephone at (404) 562–9043 or via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Through a letter dated September 12, 2018, TDEC submitted a SIP revision on behalf of the Bureau containing changes to certain air quality rules in the Chattanooga portion of the Tennessee SIP.[1] In this proposed action, EPA is proposing to approve changes from the September 12, 2018, submittal relating to open burning at Chattanooga Ordinance Part II, Chapter 4, Article II, Section 4–41, Rule 6—''Prohibition of Open Burning.''[2] [3]

The EPA is also providing clarification in this proposed action on

[1] The Bureau is comprised of Hamilton County and the municipalities of Chattanooga, Collegedale, East Ridge, Lakesite, Lookout Mountain, Red Bank, Ridgeside, Signal Mountain, Soddy Daisy, and Walden. The Bureau recommends regulatory revisions, which are subsequently adopted by the eleven jurisdictions. The Bureau then implements and enforces the regulations, as necessary, in each jurisdiction.

[2] In this proposed action, EPA is also proposing to approve substantively identical changes in the following sections of the Air Pollution Control Regulations/Ordinances for the remaining jurisdictions within the Bureau, which were locally effective as of the relevant dates below: Hamilton County—Section 41, Rule 6 (9/6/17); City of Collegedale—Section 14–341, Rule 6 (10/16/17); City of East Ridge—Section 8–41, Rule 6 (10/12/17); City of Lakesite—Section 14–42, Rule 6 (11/2/17); City of Red Bank—Section 20–41, Rule 6 (11/21/17); City of Soddy-Daisy—Section 8–41, Rule 6 (10/5/17); City of Lookout Mountain—Section 41, Rule 6 (11/14/17); City of Ridgeside Section 41, Rule 6 (1/16/18); City of Signal Mountain Section 41, Rule 6 (10/20/17); and City of Walden Section 41, Rule 6 (10/16/17).

[3] Because the air pollution control regulations/ordinances adopted by the jurisdictions within the Bureau are substantively identical, EPA refers solely to Chattanooga and the Chattanooga rules throughout the notice as representative of the other ten jurisdictions for brevity and simplicity.

its May 20, 2019 (84 FR 22786), proposed approval of part of the September 12, 2018, submittal relating to the SIP-approved definition of ''volatile organic compounds'' at Chattanooga Air Pollution Control Ordinance Part II, Chapter 4, Article II, Section 4–2.[4] Specifically, in this proposal, the EPA is clarifying that its proposed approval of Chattanooga's revised definition of ''volatile organic compounds'' also includes substantively identical revisions to the regulations/ordinances of the other ten jurisdictions within the Bureau.[5] For more information on EPA's rationale for that proposed action, see EPA's May 20, 2019, proposed rule.

II. Analysis of Tennessee's Submittal

EPA evaluated the changes to Chattanooga's open burning rules under the CAA. As discussed below, the September 12, 2018, SIP submission makes a number of clarifying edits, minor changes and updates to fees and dates throughout Part II, Chapter 4, Article II, Section 4–41, Rule 6—''Prohibition of Open Burning.''

A. Rule 6.3. Open Burning

Tennessee submitted the following revisions to Rule 6.3:

- At Rule 6.3(4), Tennessee adds language prohibiting open burning within 100 feet of a structure not owned by the permittee, as well as prohibiting burning of brush over 12 inches in diameter and tree stumps. EPA believes these revisions are SIP strengthening because they further restrict open burning.
- At Rule 6.3(7), Tennessee specifies time periods during which open burning can occur and provides that burning activities must be extinguished by the specified time. In its submittal, Tennessee amends dates during which burning can occur during the specified time periods, and also adds a provision providing that ''Burning will not be deemed extinguished if smoke or smoldering is present or if dirt is used to cover a burn pile.'' EPA believes these changes will be SIP strengthening because they require burning to be fully extinguished prior to expiration of the allowable time period for such activities. In addition, EPA believes the changes to dates and times of allowable burning are administrative in nature.
- At Rule 6.3(8), Tennessee adds language requiring open burning activities to be conducted ''by a person 16 years or older who shall have adequate means of extinguishing the fire available and is capable of doing so.'' EPA believes this amendment is SIP strengthening because it improves the management and control of open burning.
- At Rule 6.3(14), Tennessee adds language limiting the types of materials that may be burned to ''materials removed or generated from the burn site address.'' Tennessee also provides that ''[b]urning of waste generated as a result of a commercial operation is prohibited.'' Additionally, Tennessee adds a new Rule 6.3(15), which prohibits open burning ''where an obvious nuisance or safety hazard is present.'' EPA believes these changes are SIP strengthening because they further restrict open burning activities.
- Tennessee also makes administrative/clarifying edits to the rule, such as amending the amount of required fees for an open burning permit.

EPA has reviewed the revisions to Rule 6.3 and preliminarily finds them consistent with Sections 110(a) and 110(l) of the Act. EPA therefore proposes to incorporate them into the Tennessee SIP.

B. Rule 6.4. Open Burning Exemptions

Tennessee submitted the following revisions to the Rule 6.4:

- At Rule 6.4(1), Tennessee adds language limiting exempted fires used only for cooking of food, ceremonial, or recreational purposes to 3 feet in diameter, and also requires that they burn only ''clean fuel,'' which it defines as ''clean wood, gas, charcoal, wood pellets, or fire logs.'' Tennessee also adds language providing that ''[s]moke or ash from ceremonial or recreational fires shall not create a nuisance beyond the boundary of the property owner where the burning is occurring.'' EPA believes these changes are SIP strengthening because they further restrict open burning activities.
- At Rule 6.4(3), Tennessee adds clarifying language providing that safety flares and smokeless flares must comply with Section 4.8 ''and any other applicable requirement.''

EPA has reviewed the revisions to Rule 6.4 and preliminarily finds them consistent with Sections 110(a) and 110(l) of the Act. EPA therefore proposes to incorporate them into the Tennessee SIP.

C. Rule 6.5. Open Burning Exceptions

Tennessee revises Rule 6.5 at Paragraph 1 to require that fires allowed without a permit for the purpose of training of fire-fighting personnel must be conducted in accordance with standards set by the National Fire Protection Association. The change adds clarity to the level of training standards required for fire fighters, and therefore, EPA is proposing approval.

D. Rule 6.6. Controlled Burning

Tennessee submitted the following revisions to Rule 6.6:

- At Rule 6.6(12), Tennessee specifies time periods during which controlled burning can occur and provides that burning activities must be extinguished by the specified time. In its submittal, Tennessee amends the dates during which burning can occur during the specified time periods, and also adds a provision providing that ''Burning will not be deemed extinguished if smoke or smoldering is present or if dirt is used to cover a burn pile.'' EPA believes these changes will be SIP strengthening because they require the burning to be fully extinguished prior to expiration of the allowable time period for such activities. In addition, EPA believes the changes to dates and times of allowable burning are administrative in nature.
- Tennessee also makes administrative/clarifying edits to the rule, such as amending the amount of required fees for an open burning permit.

EPA has reviewed the revisions to Rule 6.4 and preliminarily finds them consistent with Sections 110(a) and 110(l) of the Act. EPA therefore proposes to incorporate them into the Tennessee SIP.

III. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Chattanooga Air Pollution Control Ordinance Part II, Chapter 4, Article II, Section 4–41, Rule 6—''Prohibition of Open Burning,'' and Part II, Chapter 4, Article II, Section 4–2, both locally

[4] EPA finalized its approval of a separate portion of the September 12, 2018 SIP submittal through a July 31, 2019 (84 FR 37099) rulemaking. EPA will act on the remaining portions of the September 12, 2018 submittal in a separate action.

[5] Thus, EPA's May 20, 2019 action, if finalized, would also approve the following ten Air Pollution Control Regulations/Ordinances, which were locally effective as of the relevant dates below: Hamilton County—Section 2 (9/6/17); City of Collegedale—Section 14–302 (10/16/17); City of East Ridge—Section 8–2 (10/12/17); City of Lakesite—Section 14–2 (11/2/17); City of Red Bank—Section 20–2 (11/21/17); City of Soddy-Daisy—Section 8–2 (10/5/17); City of Lookout Mountain—Section 2 (11/14/17); City of Ridgeside—Section 2 (1/16/17); City of Signal Mountain—Section 2 (10/20/17); and, City of Walden—Section 2 (10/16/17).

effective on January 23, 2017.[6] EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve the aforementioned changes to the Chattanooga portion of the Tennessee SIP because the changes are consistent with section 110 of the CAA. The SIP revision adds, clarifies, and updates Rule 6 consistent with applicable requirements.

V. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

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

Dated: November 13, 2019.

Mary S. Walker,

Regional Administrator, Region 4.

[FR Doc. 2019–25287 Filed 11–22–19; 8:45 am]

BILLING CODE 6560–50–P

[6] EPA's approval also includes regulations/ordinances submitted for the other ten jurisdictions within the Bureau. *See* footnote 2 and 4, *supra.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 71

[CDC Docket No. CDC–2019–0063]

RIN 0920–AA72

Control of Communicable Diseases; Importation of Human Remains

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Centers for Disease Control and Prevention (CDC) in the Department of Health and Human Services (HHS) proposes to amend two provisions within its foreign quarantine regulations to provide additional clarity and safeguards to address the risk to public health from the importation of human remains into the United States.

DATES: Written or electronic comments on the NPRM must be received by January 24, 2020.

Paperwork Reduction Act Public Comments: Submit written or electronic comments by January 24, 2020. Please see the Paperwork Reduction Act section for instructions on how to submit comments.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2019–0063 or RIN 0920–AA72 by either of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Division of Global Migration and Quarantine, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H16–4, Atlanta, GA 30329, ATTN: Human Remains NPRM.

Instructions: All submissions received must include the agency name and docket number or Regulation Identifier Number (RIN) for this rulemaking. All relevant comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Comments will also be available for public inspection from Monday through Friday, except for legal holidays, from 9 a.m. to 5 p.m., Eastern Daylight Time, at 1600 Clifton Road NE, Atlanta, Georgia 30329. Please call ahead to 404–498–1600 and ask for a representative from the Division of Global Migration and Quarantine (DGMQ) to schedule your visit.

FOR FURTHER INFORMATION CONTACT: For information regarding this NPRM: Ashley C. Altenburger, J.D., Division of Global Migration and Quarantine, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–H16–4, Atlanta, GA 30329. For information regarding CDC operations related to this NPRM: ATTN: Kendra Stauffer, D.V.M., Division of Global Migration and Quarantine, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–V–18–2, Atlanta, GA 30329. Either may also be reached by telephone 404–498–1600 or email *dgmqpolicyoffice@cdc.gov.*

SUPPLEMENTARY INFORMATION: The NPRM is organized as follows:

I. Public Participation
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C. The Regulatory Flexibility Act
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I. Public Participation

Interested persons or organizations are invited to participate in this rulemaking by submitting written views, recommendations, and data on all aspects of the proposed rule. Comments received should reference a specific portion of the rule, and inclusion of any attachments and other supporting materials are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. HHS/CDC will carefully consider and address all comments submitted and may revise the content of the rule as appropriate at the final rulemaking stage. HHS/CDC will publish a final rule after the comment period that reflects any content changes made as a result of comments received.

II. Background and Legal Authority

The primary legal authorities supporting this rulemaking are sections 361 and 362 of the Public Health Service Act (42 U.S.C. 264 and 265). Section 361 authorizes the Secretary [1] of HHS to make and enforce such regulations as in the Secretary's judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the states or possessions of the United States or from one state or possession into any other state or possession.

Section 361(a) (42 U.S.C. 264(a) does not limit the types of communicable diseases for which regulations may be enacted, but applies to all communicable diseases that may impact human health. Section 361(a) also authorizes the Secretary to promulgate and enforce a variety of public health regulations to prevent the spread of communicable diseases including regulations relating to: Inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be sources of dangerous infection to human beings, and other measures.

CDC regulations currently define ''communicable disease'' as an illness due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from an infected person or animal or a reservoir to a susceptible host, either directly or indirectly through an intermediate animal host, vector, or the inanimate environment. *See* 42 CFR 70.1 and 71.1. HHS/CDC is not proposing any changes to this definition but has included this information for background only.

Under 42 CFR 71.55, CDC's Division of Global Migration and Quarantine (CDC/DGMQ) regulates human remains that are imported into the United States primarily for burial, entombment, or cremation (hereinafter ''final resting''). CDC/DGMQ is also authorized under 42 CFR 71.32(b) to take public health measures, including detention, at ports of entry whenever there is ''reason to believe that any arriving carrier or article or thing onboard a carrier is or may be infected or contaminated with a communicable disease.'' Under the authority of 42 CFR 71.32(b) and 42 CFR 71.55, CDC has issued guidance regarding the importation of human remains.[2]

Under the authority of 42 CFR 71.54, CDC's Division of Select Agents and Toxins (CDC/DSAT) issues permits for imported infectious biological agents, infectious substances, and vectors (which includes human remains and body parts) that are known to or reasonably suspected of containing an infectious biological agent.

Section 362 (42 U.S.C. 265) authorizes the HHS Secretary [3] to issue regulations authorizing the suspension of entries and imports into the United States based on the presence of a communicable disease in a foreign country or place.

Regulations at 42 CFR 71.63 authorize the CDC Director to suspend entries and imports into the United States of animals, articles, or things from designated foreign countries or places whenever the Director determines that such an action is necessary to protect public health. Such an action must be based on a finding that there exists in a foreign country or place a communicable disease that would threaten U.S. public health and that the entry or import of that animal, article, or thing from that country or place increases the risk that the communicable disease may be introduced, transmitted, or spread into the United States. Under such circumstances, the Director will designate the foreign countries or places and the period of time or conditions under which the introduction of imports into the United States will be suspended.

HHS/CDC recognizes that other Federal agencies may have equities in the importation or transportation of human remains or other infectious substances. These other Federal agencies include the U.S. Department of Defense (DOD), which oversees the repatriation of remains of U.S. service personnel; the U.S. Department of State (DOS), which assists in the repatriation of remains of U.S. citizens who die overseas; the Department of Transportation, which oversees transportation safety, including the transportation of hazardous materials; and the Department of Homeland Security (DHS), Transportation Security Administration (TSA) which oversees a variety of activities relating to transportation security. Nothing in this NPRM is intended to alter or conflict with statutory provisions, regulations, orders, or directives of these agencies.

III. Rationale for Notice of Proposed Rulemaking

HHS/CDC's role is to ensure that human remains imported into the United States do not contain a communicable disease or an infectious biological agent that could threaten public health. In recent years, HHS/CDC has received an increased number of notifications regarding the importation of body parts that are improperly packaged (*e.g.,* contained in garbage bags or coolers susceptible of leaking fluid) or that lack proper documentation (*e.g.,* importers stating only that the remains are to be used for ''training.'').[4 5 6] In some cases, importers have misrepresented the contents of the

[1] 42 U.S.C. 264 and 265 by their terms grant authority to the U.S. Surgeon General. The Reorganization Plan No. 3 of 1966 abolished the Office of the Surgeon General and transferred the Surgeon General's functions to the Secretary of Health, Education, and Welfare (now Secretary of HHS). 31 FR 8855, 80 Stat. 1610 (Jun. 25, 1966). The Secretary of Health, Education, and Welfare was re-designated the Secretary of Health and Human Services by section 509(b) of Public Law 96–88, 93 Stat. 695 (codified at 20 U.S.C. 3508(b)). Although the Office of the Surgeon General was re-established in 1987, the Secretary of HHS has retained the Secretary's authorities under 42 U.S.C. 264 and 265.

[2] *https://www.cdc.gov/importation/human-remains.html.*

[3] The functions of the President under sections 362 and 364(a) of the Public Health Service Act (42 U.S.C. 265 and 267(a)) have been assigned to the HHS Secretary. *See* Exec. Order 13295 (Apr. 4, 2003), as amended by Exec. Order 13375 (Apr. 1, 2005) and Exec. Order 13674 (July 31, 2014).

[4] *https://www.washingtonpost.com/news/morning-mix/wp/2016/03/26/the-husband-and-wife-duo-who-allegedly-dismembered-diseased-bodies-and-sold-them-for-profit/.*

[5] *https://www.reuters.com/investigates/special-report/usa-bodies-brokers/.*

[6] *See also data in economic analysis below.*

package or the remains were found to be leaking.

HHS/CDC has two regulatory provisions that control the safe importation of human remains into the United States:

- Under § 71.54, CDC requires an import permit for the importation of a whole body or body part that is known to contain or reasonably suspected of containing an infectious biological agent.
- Under current § 71.55, CDC requires that imported human remains be cremated, or properly embalmed and placed in a hermetically sealed casket, or accompanied by a permit issued by the CDC Director if the cause of death was a quarantinable communicable disease.

Because both § 71.54 and 71.55 are applicable to imported human remains, U.S. Customs and Border Protection (CBP) agents often hold bodies and body parts for several days at the port of entry until a determination is made as to which regulatory provision should apply. In the past, while CDC has published guidance to its website, it now believes that further rulemaking is needed to address these concerns. Therefore, HHS/CDC is now proposing to formally amend its regulations to codify current policy, to clarify roles and responsibilities, and to better inform importers what requirements may apply, including when a permit may be needed. These changes are not intended to affect the operations of other Federal partners who have equities in either the importation of human remains or the regulation of such imports.

IV. Summary of Notice of Proposed Rulemaking

A. 71.50 Scope and Definitions

Through this NPRM, HHS/CDC is proposing to include four new definitions under 42 CFR 71.50, *Scope and definitions,* which is applicable to importations under part 71 subpart F: ''death certificate,'' ''human remains,'' ''importer,'' and ''leak-proof container.'' We welcome public comment on all proposed definitions.

HHS/CDC proposes to define *death certificate,* for purposes of this regulation, to mean an official government document that certifies that a death has occurred and provides identifying information about the deceased, including (at a minimum) name, age, and sex. The document must also certify the time, place, and cause of death (if known). If the official government document is not written in English, then it must be accompanied by an English language translation of the official government document, the authenticity of which has been attested to by a person licensed to perform acts in legal affairs in the country where the death occurred. In lieu of a death certificate, a copy of the Consular Mortuary Certificate and the Affidavit of Foreign Funeral Director and Transit Permit, shall together constitute acceptable identification of human remains.

By clearly enumerating these data elements, HHS/CDC will be better able to verify a body being imported for final resting matches the description on the death certificate. Further, by proposing to require that the document either be written in English or accompanied by a translation, this definition will facilitate importation into the U.S. CDC will work with DOS to the ensure that the Consular Mortuary Certificate continues to identify whether the individual died of a communicable disease so that a public health risk assessment can be conducted before importation.

HHS/CDC proposes to define *human remains,* for purposes of this regulation, to mean a deceased human body or any portion of a deceased human body, except:

- Clean, dry bones or bone fragments; human hair; teeth; fingernails or toenails; or
- A deceased human body and portions thereof that have already been fully cremated prior to import; or
- Human cells, tissues or cellular or tissue-based products (HCT/Ps) intended for implantation, transplantation, infusion, or transfer into a human recipient.

This proposed definition excludes clean, dry bones or bone fragments, human hair, teeth, fingernails or toenails and fully cremated bodies or portions thereof because these items do not contain body fluids and therefore are not considered to pose a threat to public health. By narrowing this definition, HHS/CDC is also able to convey which portions of the dead body it intends to regulate. For purposes of this regulation, the proposed definition also excludes HCT/Ps intended for implantation, transplantation, infusion, or transfer into a human recipient because these items are regulated by a separate HHS agency (the Food and Drug Administration).

HHS/CDC proposes to define *importer,* for purposes this regulation, as any person importing or attempting to import an item regulated under the subpart.

This proposed definition will be applicable to all provisions under subpart F of 42 CFR part 71. ''Person'' is currently defined under § 71.50 as any individual or partnership, firm, company, corporation, association, organization, or similar legal entity, including those that are not-for-profit. No changes will be made to the definition of ''Person.''

HHS/CDC is proposing to replace the current requirement that remains be contained within a ''hermetically sealed casket'' with a requirement and definition of *leak-proof container,* defined for the purposes of this regulation, as a container that is puncture-resistant and sealed in a manner so as to contain all contents and prevent leakage of fluids during handling, storage, transport, or shipping, such as:

- A double-layered plastic, puncture-resistant body bag (*i.e.,* two sealed body bags, one inside the other),
- A casket with an interior lining certified by the manufacturer to be leak-proof and puncture-resistant, or
- A sealed metal body-transfer case.

This will ensure that importers are aware that coolers, garbage bags, and similar non-leak-proof containers are not acceptable because these items do not prevent the leakage of fluids used to transport human remains.

B. 71.55 Importation of Human Remains

To best reflect current practice, HHS/CDC proposes to rename current 42 CFR 71.55 ''Dead Bodies'' to ''Importation of Human Remains'' to clarify that our authority extends to portions of the human body, and not only to ''dead bodies'' as a whole, as well as to highlight the difference in documentation needed between human remains imported for final resting (under § 71.55) and human body parts primarily imported for other reasons, which may fall under § 71.54 ''Import regulations for infectious biological agents, infectious substances, and vectors.''

Under proposed 42 CFR 71.55(a), all human remains intended for import into the United States and those transiting through the United States *en route* to a foreign destination must be contained in a leak-proof container that is packaged and shipped in accordance with all applicable legal requirements. This requirement will ensure that individuals handling the packages of human remains are not exposed to body fluids that may contain an infectious biological agent or embalming material, regardless of whether the remains are intended for importation or are in transit through the United States. HHS/CDC also proposes to eliminate specific requirements under current § 71.55 that

human remains of a person who died of a quarantinable communicable disease be ''embalmed'' and placed into a ''hermetically sealed casket'' because this no longer reflects current best practices and unnecessarily increases the burden on importers.

Proposed § 71.55(b) informs the public that imports of human remains known to contain or reasonably suspected of containing an infectious biological agent must abide by 42 CFR 71.54 to ensure that all measures are taken to protect U.S. public health. This includes remains known to contain or reasonably suspected of containing an infectious biological agent that have not or cannot be rendered noninfectious.

Under proposed § 71.55(c)(1)(i), to ensure that human remains imported for final resting enter only for the intended purpose, we have included a proposed requirement that such remains be consigned ''directly'' to a licensed mortuary, cemetery, or crematory. Section 71.55(c)(1)(ii), requires that these remains (unless embalmed) must also be accompanied by a death certificate or, if the death certificate is incomplete or missing, an importer certification statement confirming that the human remains are not known to contain or stating why the human remains are not reasonably suspected of containing an infectious biological agent. Such documentation ensures that the human remains do not pose a threat to public health because the decedent succumbed to a communicable disease, including a quarantinable communicable disease.

HHS/CDC is aware that certain Federal partners, such as DOD and DOS, may require that human remains of military or civilian personnel continue on to a place of final resting outside of the United States after the remains are transported into the United States. Such a transport will not be deemed an ''import'' under this provision and therefore will not be subject to the requirement that remains be consigned ''directly'' to a licensed mortuary, cemetery, or crematory, because the remains are ''transiting'' through the United States *en route* to final destination. Under this proposal, HHS/CDC will not prevent human remains from transiting through a U.S. port of entry *en route* to another country, provided that the remains are properly packaged in a leak-proof container and in compliance with applicable transportation requirements.

Under proposed § 71.55(c)(2)(i), if human remains are imported for medical examination or autopsy, the remains must be consigned directly to an entity authorized to perform such functions under the laws of the applicable jurisdiction prior to subsequent burial, entombment, or cremation. By ''authorized,'' HHS/CDC includes government entities that typically perform medical examinations or autopsies such as state or local coroners' offices, as well as private entities operating in compliance with the laws of the relevant jurisdiction. Upon completion of the medical examination or autopsy, the human remains must be immediately delivered to a licensed mortuary, cemetery, or crematory that will be responsible for final resting. Section 71.55(c)(2)(ii), requires that these remains (unless embalmed) be accompanied by a death certificate or, if the death certificate is incomplete or missing, an importer certification statement confirming that the human remains are not known to contain or stating why the human remains are not reasonably suspected of containing an infectious biological agent. Such documentation ensures that the human remains being imported do not pose a threat to public health because the decedent succumbed to a communicable disease, including a quarantinable communicable disease.

Both § 71.55(c)(1) and (2) include the clause ''unless embalmed'' because embalmed remains are considered to have been rendered noninfectious and therefore would not require a death certificate to ensure that the individual did not die of a communicable disease. HHS/CDC understands that certain countries do not state cause of death on a death certificate due to privacy concerns. For this reason, also under proposed § 71.55(c)(1) and (2), if the death certificate is incomplete or if cause of death is not listed, the human remains must be accompanied by an importer certification statement confirming that the human remains are not known to contain or reasonably suspected of containing an infectious biological agent.

CDC will also deem a consular mortuary certificate that references whether the person died of a communicable disease, accompanied by an affidavit or sworn declaration by the local funeral director and transit permit, together as sufficient documentation in lieu of a death certificate. CDC welcomes public comment on whether other valid documents should be accepted in lieu of a death certificate.

Proposed § 71.55(c)(3) requires that, unless embalmed, all ''human remains'' (as that term is defined) imported into the United States for purposes other than final resting or autopsy be accompanied by an importer certification statement confirming that the human remains are not known to contain or stating why the human remains are not reasonably suspected of containing an infectious biological agent. This proposed language addresses the other uses for human remains such as medical training or anatomical display.

HHS/CDC understands that certain partner agencies, such as the FAA Civil Aerospace Medical Institute (CAMI), may import human remains in order to help accident investigators determine the cause and contributing factors of an aircraft accident. Performing toxicology and other medical tests on human remains, as well as reviewing medical records, toxicological testing results, and autopsy reports, can help accident investigators determine, for example, if an airman's medical impairment or incapacitation contributed to the cause of an aircraft accident. HHS/CDC does not consider importations of human remains for these purposes to constitute ''human remains imported for medical examination or autopsy'' because the purpose is not to determine individual cause of death, but rather to aid in accident investigation. In addition, other organizations may import cadavers or partial human remains for product or safety testing or other scientific purposes. Human remains imported for these purposes would fall under the ''imported for any other purpose'' under (c)(3) and would require, unless embalmed, an importer certification statement confirming that the human remains are not known to contain or stating why the human remains are not reasonably suspected of containing an infectious biological agent.

Finally, under proposed § 71.55(d), the CDC Director may suspend the entry or importation of human remains under 42 CFR 71.63 if the Director determines that such an action is necessary to protect the public health. Such an action may occur when (i) the import is coming from a foreign country designated by the CDC Director as a place where a communicable disease exists that could threaten U.S. public health and (ii) the import increases the risk of introducing or spreading the communicable disease into the United States. In the past, this provision has only been invoked to temporarily suspend wildlife reservoirs of zoonotic disease and HHS/CDC does not anticipate that this provision will be invoked frequently absent a public health emergency where such measures would be needed to protect U.S. public health. HHS/CDC welcomes public comment on this proposed emergency measure.

VI. Required Regulatory Analyses

A. Executive Orders 12866 and 13563

Executive Orders 12866 ''Improving Regulation and Regulatory Review,'' and 13563, ''Regulatory Planning and Review,'' direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

Statement of Need

As discussed in more detail above, HHS/CDC proposes to amend two provisions within its foreign quarantine regulations (specifically, 42 CFR 71.50 and 71.55) to provide additional clarity and safeguards to address the risk to public health from the importation of human remains into the United States. In recent years, HHS/CDC has received an increased number of notifications regarding the importation of body parts that are improperly packaged (*e.g.,* contained in garbage bags or coolers susceptible of leaking fluid) or that lack proper documentation (*e.g.,* importers stating only that the remains are to be used for ''training.'').[7] [8] In some cases, importers have misrepresented the contents of the package or the remains were found to be leaking.

HHS/CDC has two regulatory provisions that control the safe importation of human remains into the United States:

- Under § 71.54, CDC requires an import permit for the importation of a whole body or body part that is known to contain or reasonably suspected of containing an infectious biological agent.
- Under current § 71.55, CDC requires that imported human remains be cremated, or properly embalmed and placed in a hermetically sealed casket, or accompanied by a permit issued by the CDC Director if the cause of death was a quarantinable communicable disease.

Because both §§ 71.54 and 71.55 are applicable to imported human remains, CBPU.S. Customs and Border Protection agents often hold bodies and body parts for several days at the port of entry until a determination is made as to which regulatory provision should apply. In the past, while CDC has published guidance to its website, it now believes that further rulemaking is needed to address these concerns. Therefore, HHS/CDC is now proposing to formally amend its regulations to codify current policy, to clarify roles and responsibilities, and to better inform importers what requirements may apply, including when a permit may be needed. These changes are not intended to affect the operations of other Federal partners who have equities in either the importation of human remains or the regulation of such imports.

The proposed regulatory changes described in the preamble and reported below are a codification of current requirements authorized under existing 42 CFR 71.32(b), 71.54, 71.55, and 71.63, and described in guidance. Since this NPRM does not change the regulatory baseline, HHS/CDC expects minimal economic impacts on importers of human remains, Department of Homeland Security/Customs and Border Protection/Transportation Security Administration (DHS/CBP, DHS/TSA,), HHS/CDC, Department of State (DOS), airline or other industries that facilitate the importation of human remains, or state and local public health departments (Ph.D.s).

HHS/CDC regulations are necessary to correct the market failure in which human remains are improperly packaged (*e.g.,* contained in garbage bags or coolers susceptible of leaking fluid) or that lack proper documentation that could pose additional risk to individuals in the event of an accidental exposure. These changes should reduce risks of exposure for other non-importer stakeholders (*e.g.,* carrier or vessel staff, other travelers, TSA or CBP staff who inspect cargo) to communicable diseases. The container requirement limits exposures to leaking fluids. The documentation requirements ensure that human remains that pose a public health risk are accompanied with the proper permit documentation under existing 42 CFR 71.54 or are consigned ''directly'' to a licensed mortuary, cemetery, or crematory. If human remains are consigned directly to a licensed mortuary, cemetery, or crematory, the human remains will be handled by professionals with experience handling human remains. Otherwise, the documentation and container requirements would limit others' exposure to human remains or may provide additional information (via the documentation requirements) on potential public health risks in the event of an exposure.

The requirements specified under proposed 42 CFR 71.55(a) conform with existing CDC guidance that human remains should be transported in a leak-proof container that is packaged and shipped in accordance with all applicable legal requirements. For human remains for which the cause of death was a quarantinable communicable disease, HHS/CDC requirements will change from the more restrictive hermetically sealed casket to the less restrictive leakproof container. These requirements are also consistent with requirements imposed by the four largest U.S. carriers in 2019 for transport of human remains (*i.e.,* Delta, American, United, and Southwest Airlines). In practice, HHS/CDC is unaware of any imported human remains of individuals who died of a quarantinable disease in the previous 15 years. HHS/CDC proposes to eliminate specific requirements under current § 71.55 that human remains of a person who died of a quarantinable communicable disease be ''embalmed'' and placed into a ''hermetically sealed casket'' because this no longer reflects current best practices and would unnecessarily increase the burden on importers.

The requirements under proposed 42 CFR 71.55(b) simply refer to existing permit requirements described in 42 CFR 71.54 for all imported human remains known to contain or reasonably suspected of containing an infectious biological agent. There is no change to 42 CFR 71.54, simply clarification of when 42 CFR 71.54 should apply to transport of human remains. The requirements under proposed 42 CFR 71.55(c) clarify the documentation requirements for un-embalmed human remains imports that do not need permits according to existing 42 CFR 71.54. These documentation requirements are consistent with existing practices in the Department of State's Foreign Affairs Manual and consistent with other agencies' requirements for transporting human remains to facilitate U.S. Customs Clearance.

HHS/CDC qualitatively considered alternatives to codifying current practice. HHS/CDC considered a less-restrictive requirement than transport of human remains in a leakproof container. Qualitatively, HHS/CDC does not believe this regulatory action would significantly change the current status quo. As noted, the current requirements of the four largest U.S. carriers to ship human remains are already consistent with the HHS/CDC's leakproof container requirement. If HHS/CDC chose not to

[7] *https://www.washingtonpost.com/news/morning-mix/wp/2016/03/26/the-husband-and-wife-duo-who-allegedly-dismembered-diseased-bodies-and-sold-them-for-profit/.*

[8] *https://www.reuters.com/investigates/special-report/usa-bodies-brokers/.*

regulate the type of container, airlines may choose to maintain their existing requirement for transporting human remains internationally in leakproof containers to avoid exposures to their employees, which may also be regulated, after entry through ports of entry, under the U.S. Department of Labor's Occupational Safety and Health Administration's requirements (refer to 29 CFR 1910.1030). In addition, importers (other than colleges, hospitals, or laboratories) of human remains for purposes other than burial, entombment, or cremation may already be subject to U.S. Department of Transportation packaging requirements delineated in 49 CFR 173.199. These requirements are more restrictive than HHS/CDC's leakproof container requirement.

Another alternative would be to require a more restrictive requirement, such as a hermetically sealed casket, to import all un-embalmed human remains. Qualitatively, the cost of this alternative would be much more expensive than the status quo guidance and HHS/CDC does not believe the marginal improvement to public health would justify the substantially increased cost of requiring hermetically sealed caskets to import all un-embalmed human remains.

HHS/CDC documentation requirements are consistent with existing international agreements and instruments governing the international transportation of human remains as noted in the DOS Foreign Affairs Manual, 7 FAM 252(b).[9] The documentation requirements listed in proposed 42 CFR 71.55(c) only apply to human remains that are not embalmed. Since the majority of human remains imported for burial, entombment, or cremation are embalmed, most importations would not be affected by this codification of current practice.

A less restrictive alternative would be to also omit the documentation requirements for un-embalmed human remains. However, as noted in 7 FAM 258, DOS states that the consular mortuary certificate is designed to facilitate U.S. Customs Clearance. In addition, DOS requests a certificate of death, an affidavit by the local funeral director, and a transit permit as required by local laws to support exporting human remains. It should be noted that the documentation requested by DOS to support the transportation of cremated human remains (which are exempt from HHS/CDC requirements) are similar to the requested documentation for non-cremated human remains.[10] In general, HHS/CDC would expect that death certificates or the Affidavit of Foreign Funeral Director and Transit Permit would be created in the event of an overseas death and would be available for most human remains imported for burial, entombment, or cremation. However, it may not be necessary to provide either a (translated) death certificate or to translate the Affidavit of Foreign Funeral Director or Transit Permit. Thus, the primary cost may be for translation services for these documents if human remains are imported from a non-English-speaking country. Since the importation of most human remains are already facilitated by DOS consular offices, translated documentation may already be provided to U.S. consular offices in most cases. Without the documentation required in this NPRM, it would not be possible for HHS/CDC to confirm that individuals did not die from a quarantinable communicable disease or otherwise pose a public health risk to individual exposed to their un-embalmed remains. In the past, HHS/CDC has not routinely had issues obtaining these documents for imported, un-embalmed human remains for burial, entombment, or cremation in the past, but would welcome public comment on the cost of producing such documentation. Qualitatively, HHS/CDC believes that the costs associated with increased risk of exposure to un-embalmed human remains infected with communicable diseases justify the expense for the documentation requirements codified in proposed 42 CFR 71.55(c) for un-embalmed human remains.

A more restrictive documentation requirement would be to require that all importations of human remains (*i.e.,* embalmed remains as well as un-embalmed remains) comply with this documentation requirement. However, HHS/CDC does not believe that the public health risks posed by embalmed human remains (*e.g.* exposure to embalming fluids) shipped in leakproof containers necessitate additional documentation requirements for public health purposes.

HHS/CDC also considered an alternative in which different requirements would apply to different countries. However, since most human remains that are imported to the United States were U.S. citizens, permanent residents, or their relatives, HHS/CDC does not generally believe the risk of exposure to communicable diseases is likely to vary depending based on the country from which human remains are imported. HHS/CDC does address the potential need to apply different requirements to different countries in proposed 42 CFR 71.55(d). The CDC Director may suspend the entry or importation of human remains under 42 CFR 71.63 if the Director determines that such an action is necessary to protect the public health. Such an action may occur when (i) the import is coming from a foreign country designated by the CDC Director as a place where a communicable disease exists that could threaten U.S. public health and (ii) the import increases the risk of introducing or spreading the communicable disease into the United States. In the past, this provision has only been invoked to temporarily suspend wildlife reservoirs of zoonotic disease and HHS/CDC does not anticipate that this provision will be invoked frequently absent a public health emergency where such measures would be needed to protect U.S. public health.

The rest of the economic evaluation below focuses on estimation of the potential costs and benefits of the requirements included in this NPRM relative to the current status quo.

Economic Impact

DOS works with U.S. residents to process the required documentation for importing human remains into the United States for burial, entombment, or cremation. Their requirements are reported in the current version of the Foreign Affairs Manual (FAM). In 7 FAM 252(a)(3), DOS notes that CDC's authority is not limited to quarantinable communicable diseases but extends to the importation of remains of persons who died of other communicable diseases. Specifically, 7 FAM 252(a)(3) states that ''In general, U.S. public health requirements will be satisfied if the remains are shipped in a leak-proof container and accompanied by the death certificate or the consular mortuary certificate, which must state that the deceased did not die from a quarantinable communicable disease. A leak-proof container is one that is puncture-resistant and sealed in a manner to contain all contents and prevent leakage of fluids during handling, storage, transport, or shipping. While additional restrictions are not generally employed, CDC reserves the right to do so on a case-by-

[9] The international agreements and instruments listed in 7 FAM 252(b) are (1) Council of Europe, Agreement on The Transfer Of Corpses, Signed at Strasbourg, October 26th, 1973; (2) Pan American World Health Organization, XVII Pan American Sanitary Conference, XVIII Regional Committee Meeting, Resolution XXIX, adopted in Washington, October 7th, 1966, International Transportation Of Human Remains; and (3) International Arrangements Concerning the Conveyance of Corpses, Signed at Berlin, February 10, 1937.

[10] Refer to 7 FAM 256.

case basis when necessary to prevent the spread of disease.''

This description is consistent with the codification of requirements of human remains for the purposes of burial, entombment, or cremation under proposed 42 CFR 71.55 as summarized above. Because this is a codification of current practice, the economic impact on importers of human remains and DOS are expected to be minimal. To estimate the cost to DOS to update the FAM to include references to proposed 42 CFR 71.55, the cost was estimated by assuming that 1 GS–14, step 5 employee and one GS–15, step 5 employee each spend 40 hours (*i.e.,* 80 hours in total) for any updates to cite the language in proposed 42 CFR 71.55. The hourly wage rates for these two employees based in Washington-Baltimore-Arlington, DC-MD-VA-WV-PA are $62.23 (GS–14) and $73.20 (GS–15).[11] To account for the non-wage benefits, we multiplied the wage cost by two to result in a total cost estimate of $10,834. The costs for CBP and CDC are expected to be similar (Table 1), because this change is a codification of current practice. Thus, the expected one-time costs associated with codification for all three agencies can be estimated at $31,906.

TABLE 1—SUMMARY OF THE ONE-TIME COSTS IN 2018 USD TO UPDATE OFFICIAL DOCUMENTS FOR DEPARTMENT OF STATE (DOS), CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC), AND CUSTOMS AND BORDER PROTECTION (CBP) COSTS FROM THE CODIFICATION IN PROPOSED 42 CFR 71.55 OF THE REQUIREMENTS AUTHORIZED UNDER EXISTING 42 CFR 71.32(b), 71.54, AND 71.63

Agency	Cost components	Hourly wage rate [12]	Multiplier for non-wage benefits and overhead	Total
DOS	80 hours split between GS–14, step 5 and GS–15, step 5 levels	67.72	2	$10,834
CDC	80 hours split between GS–14, step 5 and GS–15, step 5 levels	63.99	2	10,238
CBP	80 hours split between GS–14, step 5 and GS–15, step 5 levels	67.72	2	10,834
Total				$31,906

Individuals importing human remains for purposes other than burial, entombment, or cremation, may be less familiar with CDC requirements authorized under existing 42 CFR 71.32(b) and 71.54. As a result, importers of human remains for other purposes may not be aware of the requirement that human remains must arrive in an appropriate, leak-proof shipping container as specified under proposed 42 CFR 71.55(a). In addition, they may not be aware that, unless human remains are embalmed and therefore rendered noninfectious, they must be accompanied by a death certificate listing cause of death or that if the death certificate is incomplete or if cause of death is not listed, the human remains must be accompanied by an importer certification statement either confirming that the human remains are not known to contain or stating why the human remains are not reasonably suspected of containing an infectious biological agent as specified under proposed 42 CFR 71.55(c). In addition, importers would need to apply for a permit under existing 42 CFR 71.54 if they are unable to demonstrate that human remains are not reasonably suspected of containing an infectious biological agent. Upon publication of a final rule, CDC will update its website to ensure that importers have access to the most up-to-date information regarding packaging and documentation requirements for human remains.

The codification of existing requirements should not result in an additional regulatory burden and should help reduce the costs by reducing confusion regarding the requirements for importing human remains for purposes other than burial, entombment or cremation. However, as an upper bound cost estimate, we assumed that one additional importer would apply for a permit to import human remains for other purposes every other year after the final rule goes into effect. When importers first apply for a permit, the greatest expense is associated with the need for DSAT to perform an inspection of the importers' facilities and to document their findings. This process also requires time for importers to support the inspection and respond to questions from DSAT subject matter experts. HHS/CDC estimated the amount of time per inspection to include about 20 hours of staff time split between the GS–12, GS–13, and GS–14 pay levels. To estimate costs, HHS/CDC assumed the staff would be compensated at step 5 as summarized in Table 2. In addition to hourly wages, non-wage benefits and overhead costs were estimated by multiplying the wage cost by two. The average round trip airfare for flights from Atlanta was estimated at $367 using data from the Bureau of Transportation Statistics.[13] The average Federal per diem for lodging, meals, and incidental expenses was estimated at $158 per day for one day.[14] Assuming that inspections occur on average (0.5 times per year, the annual cost would be estimated at $1,518 per year.

[11] U.S. Office of Personnel and Management. *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2018/general-schedule/.* Accessed on March 27, 2019.

[12] U.S. Office of Personnel and Management. *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2018/general-schedule/.* Accessed on March 27, 2019.

[13] Bureau of Transportation Statistics. Average Domestic Airfares (Atlanta, 2018 Q4). *https://transtats.bts.gov/AIRFARES/.* Accessed on June 19, 2019.

[14] *FederalPay.org.* 2018 Federal Per Diem Rates. (Average of 50 states). *https://www.federalpay.org/perdiem/2018.* Accessed on June 19, 2019.

In addition to CDC costs, importers would have to spend time to support the inspection and respond to CDC questions. HHS/CDC would welcome public comment on the costs to importers to support such inspections. HHS/CDC assumed the amount of time required would be equivalent to CDC staff time (*i.e.,* about 20 hours) and that the individual working on the inspection would be compensated at a rate equivalent to the national average wage rate reported for individuals working as Sales Representatives, Wholesale and Manufacturing, Technical and Scientific Products as reported in the Bureau of Labor Statistics' May 2018 National Occupational Employment and Wage Estimates (Occupation code= 41–4011).[15] Their 2018 reported hourly wage rate was $44.15. Assuming 0.5 inspections per year and a multiplier of 2 to cover non-wage benefits and overhead, the annual cost for importers was estimated at $883 per year. In total, the annual cost for increased inspections for CDC ($1,518) and importers ($883) was estimated at $2,401. This should represent an upper bound estimate as HHS/CDC does not anticipate a large increase in inspections as a result of this NPRM.

TABLE 2—ESTIMATED ANNUAL CDC COST IN 2018 USD FOR INSPECTIONS OF THE FACILITIES FOR AN IMPORTER OF HUMAN REMAINS FOR PURPOSES OTHER THAN FINAL RESTING

Type of CDC staff	Number of staff	Number of inspections per year	Number of hours spent per inspection	Average hourly wage rate [16]	Overhead multi-plier	Annual cost
GS–12 (step 5)	0.33	0.5	20	$41.85	1	$276
GS–13 (step 5)	0.33	0.5	20	49.76	1	328
GS–14 (step 5)	0.33	0.5	20	58.80	1	388
Total						993
Travel cost	Airfare [17]	$367	Hotel, food, lodging [18]		$158	$525
Total (personnel + travel)						1,518

The total projected costs over a 10-year time horizon for each government agency and for importers can be estimated using a 3% discount rate. Table 3 summarizes the present value and annualized value of costs over the full 10-year period. In total, the estimated cost is $46,977 over 10 years or an annualized value of $5,507 per year.

TABLE 3—PRESENT VALUE AND ANNUALIZED VALUE OF COSTS IN 2018 USD OVER 10 YEARS USING A 3% DISCOUNT RATE FOR GOVERNMENT AGENCIES AND FOR IMPORTERS OF HUMAN REMAINS FOR PURPOSES OTHER THAN FINAL RESTING

	Net present cost over 10-year horizon	Annualized cost over 10-year horizon
CDC	$18,408	$2,158
CBP	10,518	1,233
DoS	10,518	1,233
Importers of human remains for other purposes	7,532	883
Total	46,977	5,507

In the past, imported human remains for reasons other than burial, entombment or cremation have arrived in inappropriate (*i.e.,* not leak-proof) containers or without sufficient documentation to determine whether such remains may contain or be reasonably suspected of containing an infectious biological agent. This has led to confusion at the port of entry and detention of the human remains pending an investigation. CDC reviewed available importation records and identified six human remains shipments that required repackaging over the 5-year period from 2014 to 2018. Of the six shipments, four occurred between November 2017 and the end of 2018. These investigations require significant effort to resolve. CDC involvement usually includes scientific, legal, policy, and leadership staff from CDC/DGMQ and CDC/DSAT. In each of these cases, CDC determined that a permit issued according to existing 42 CFR 71.54 would be required when human remains are reasonably suspected of containing an infectious biological agent if they are without adequate shipping containers or proper documentation, unless they are cremated, embalmed, or otherwise rendered noninfectious per the proposed definition of ''human remains.''

Although the amount of time per investigation event varies, on average, each importation investigation was estimated to require approximately 600 hours of CDC staff time split between

[15] Bureau of Labor Statistics, May 2018 National Occupational Employment and Wage Estimates (Occupation code= 41–4011). *https://www.bls.gov/oes/current/oes_nat.htm.* Accessed on June 19, 2019.

[16] U.S. Office of Personnel and Management. *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2018/general-schedule/.* Atlanta-Athens-Clarke county-Sandy Springs, GA–AL Accessed on June 19, 2019.

[17] Bureau of Transportation Statistics. Average Domestic Airfares (Atlanta, 2018 Q4). *https://transtats.bts.gov/AIRFARES/.* Accessed on June 19, 2019.

[18] *FederalPay.org* 2018 Federal Per Diem Rates. (Average of 50 states). *https://www.federalpay.org/perdiem/2018.* Accessed on June 19, 2019.

the GS–13, GS–14, and GS–15 levels. The time spent included conference calls with the importer and CBP, legal review, permit issuance under 42 CFR 71.54, if applicable, among other activities (Table 4). The 2018 reported hourly wage rates for GS–13, GS–14, and GS–15 employees at step 5 are $49.76, $58.80, and $69.17 per hour respectively in the Atlanta, GA area.[19] If this amount of time is split evenly across each level, the estimated cost per investigation would be $35,546. This amount can then be multiplied by 2 to account for non-wage benefits and overhead to estimate a total cost of $71,092 per investigation.

In addition to CDC costs, CBP also incurs costs to deal with each investigation including time spent communicating with CDC. The amount of time spent by CBP is also significant and conservatively estimated at 50% of the time spent by CDC staff. The estimated hourly wage rate for CBP officers was estimated by assuming that the workload would be split evenly across employees at the GS–5, GS–9, GS–11, and GS–12 levels with support from GS–15 managers providing additional coordination with CDC senior staff. Thus, compensation was split evenly across grades and each grade was assumed to be compensated at the step 5 level using the Washington-Baltimore-Arlington hourly pay scale (on average, $41.02 per hour).[20] This would result in a wage cost of $12,306. After multiplying wages by 2 to account for non-wage benefits and overtime, the estimated CBP cost would be $24,614. Adding the CBP and CDC costs, the total cost per investigation event would be $71,092 + $24,614 = $95,706.

TABLE 4—BENEFITS (AVERTED COSTS) PER EVENT IN 2018 USD IN WHICH HUMAN REMAINS WITHOUT ADEQUATE DOCUMENTATION OR SHIPPING CONTAINERS ARE IMPORTED FOR PURPOSES OTHER THAN BURIAL, ENTOMBMENT, OR CREMATION AND ARE HELD AT THE PORT OF ENTRY PENDING AN INVESTIGATION

Agency	Cost components	Hourly wage rate[21]	Multiplier for non-wage benefits and overhead	Total
CDC	600 hours split between GS–13, step 5; GS–14, step 5; and GS–15, step 5 levels.	$59.24	2	$71,092
CBP	300 hours at the GS–5, GS–9, GS–11, GS–12, and GS–15, step 5 level	41.02	2	24,614
Total				95,706

In addition to costs to CDC and CBP, importers of human remains for purposes other than final resting might not use leak-proof containers or fail to provide import permits or importer certification statement(s). When this occurs, importers spend a considerable amount of time communicating with CDC and CBP about missing documentation, searching for missing documentation after those human remains arrive at ports of entry, or repackaging shipments at the importer's expense. This codification of requirements authorized under 42 CFR 71.32(b), 42 CFR 71.54, and 42 CFR 71.55 pertaining to the importation of human remains should reduce confusion. Besides the time spent on searching for documentation and the cost of repackaging, the human remains may begin to decompose during the investigation process, which would affect the value of imports that may otherwise be used for purposes other than final resting. HHS/CDC does not have any way to estimate time for repackaging costs or decomposition costs, but would welcome public comment on these costs. By reducing confusion, some of these costs may be averted when the proposed 42 CFR 71.55 goes into effect. On the other hand, codification of these requirements may increase the costs of human remains for purposes other than burial, entombment, or cremation if such importations are currently occurring without CBP or CDC oversight.

The one-time costs of updating communications materials and the costs for an additional 0.5 importers per year to undergo an inspection to verify their ability to safely import human remains for purposes other than final resting was estimated to cost $46,977 over 10 years (annualized cost: $5,507). These costs can be compared to the benefits (averted costs per investigation after human remains are held at the port of entry because they arrived in a container that was not leak-proof or with improper documentation ($95,706). During calendar years 2014–2018, there were seven time-intensive investigations for an average 1.4 investigations per year. Among these events, one shipment of human remains was re-exported. The remaining six shipments all required repackaging and were held by CBP for between 2 days and 22 days (average hold: 11.3 days). Of the seven total investigations, six involved human remains imported for purposes other than final resting. One of these shipments was re-exported and the other five shipments of human remains were cremated after being held by CBP. Four of the seven investigations occurred in 2018, demonstrating an increasing trend in improperly imported human remains.

A comparison can be made between the estimated costs and potential benefits (*i.e.,* averted Federal Government costs for an investigation). This comparison suggests that even if only one held importation requiring investigation will be averted in the 10 years after the codification goes into effect, the expected benefits (averted costs) would exceed expected costs assuming a discount rate of 3% per year. To the extent that this NPRM would increase the number of inspections by DSAT, the need to conduct investigations should decrease proportionately. This is because it is assumed that the need for investigations results from lack of awareness of importation requirements for human remains for purposes other than final resting as authorized under existing 42 CFR 71.32(b), 42 CFR 71.54 and 42 CFR 71.55. However, the inspection process itself should allow importers to fully understand their import requirements in regard to shipping containers, documentation, or permits.

[19] U.S. Office of Personnel and Management. *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2018/general-schedule/.* Accessed on March 27, 2019.

[20] U.S. Office of Personnel and Management. *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2018/general-schedule/.* Accessed on March 27, 2019.

[21] U.S. Office of Personnel and Management. *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2018/general-schedule/.* Accessed on March 27, 2019.

In addition to the reduced costs associated with imported human remains for purposes other than burial, entombment, or cremation arriving with inadequate documentation or shipping containers, there may be additional savings for the small numbers of human remains that arrive with insufficient documentation for burial, entombment, or cremation. During calendar years 2014 through 2018, CDC requested additional documentation from seven importers of human remains for burial, entombment or cremation (average 1.4 events per year) and 9 importers of human remains for purposes other than final resting (1.8 events per year). In contrast to the time-intensive investigation events described above, these events were usually resolved quickly because death certificates listing cause of death or importer certification statements either confirming that the human remains were not known to contain or stating why the human remains were not reasonably suspected of containing an infectious biological agent were provided relatively quickly. However, delays still incur some additional time costs that may be averted if the requirements codified in proposed 42 CFR 71.55 are better understood.

Finally, the proposed language in 42 CFR 71.55(d) that existing 42 CFR 71.63 may apply to imported human remains, if the Director designates a foreign country and determines that such an action is necessary to protect the public health, is again codifying an existing requirement. Since its enactment, CDC has applied 42 CFR 71.63 one time, on May 10, 2019, to suspend entry of dogs from Egypt after three dogs with canine rabies virus variant were imported into the United States within four years.[22] However, the suspension has not been in place long enough to do a full economic analysis and a suspension of imports for dogs may not be analogous to a suspension of imports for human remains in terms of economic impact.

B. Executive Order 13771

Executive Order 13771 ''Reducing Regulation and Controlling Regulatory Costs,'' requires executive departments and agencies to eliminate at least two existing regulations for every new significant regulation that imposes costs. HHS/CDC has determined that this rule imposes no more than de minimis costs, and therefore not considered a regulatory action.

C. The Regulatory Flexibility Act

Under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), agencies are required to analyze regulatory options to minimize significant economic impact of a rule on small businesses, small governmental units, and small not-for-profit organizations. HHS/CDC finds that the NPRM is not expected to change the cost of compliance for small businesses, small governmental units, or small not-for-profit organizations.

D. Paperwork Reduction Act of 1995

HHS/CDC has determined that this NPRM contains proposed information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520). A description of these proposed provisions is given below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information. Comments are invited on the following subjects.

- Whether the proposed collection of information is necessary for the proper performance of the functions of HHS/CDC, including whether the information will have practical utility.
- The accuracy of HHS/CDC's estimate of the burden of the collection of information.
- Ways to enhance the quality, utility, and clarity of the information to be collected.
- Ways to minimize the burden of the collection of information on respondents, including by using information technology.

HHS/CDC currently has approval to collect certain information concerning the importation of dead bodies under two OMB Control Numbers: 0920–0134 *Foreign Quarantine Regulations* (expiration date 03/31/2022) and 0920–0199 Application for Permit to Import Biological Agents and Vectors of Human Disease into the United States and Application for Permit to Import or Transport Live Bats (42 CFR 71.54) (expiration date 04/30/2021). This NPRM is proposing updates to one information collection: 0920–0134. CDC is taking public comment on the burden to the public outlined in this update.

Written comments should be received within 60 days of the publication of this NPRM. Please send written comments to Information Collection Review Office, 1600 Clifton Road NE, Atlanta, GA 30333.

Proposed Projects

(1) Foreign Quarantine Regulations (42 CFR part 71) (OMB Control No. 0920–0134)—Nonmaterial/non-substantive change—National Center for Emerging, and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Description

Section 361 of the Public Health Service (PHS) Act (42 U.S.C. 264) authorizes the Secretary of Health and Human Services to make and enforce regulations necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States. Legislation and existing regulations governing foreign and interstate quarantine activities (42 CFR parts 70 and 71) authorize CDC quarantine officers and customs personnel to inspect and undertake necessary control measures in order to protect the public's health. Other inspection agencies assist quarantine officers in public health risk assessment and management of persons, animals, and other importations of public health importance, including human remains. Human remains may harbor communicable diseases, and if not packaged and processed according to accepted standards, may represent a risk to handlers and the receiving community.

Requiring a death certificate that states the cause of death (or a specified alternative document) and requiring appropriate packaging of human remains mitigates the introduction and spread of communicable diseases into the United States with a minimum of recordkeeping and reporting as well as a minimum of interference with trade and travel. The death certificate will only be required for those seeking to import human remains that have not been embalmed or otherwise rendered noninfectious.

- At present, HHS/CDC has approval from OMB to collect certain information and impose recordkeeping requirements related to foreign quarantine responsibilities under OMB Control Number 0920–0134 (expiration 05/31/2019). HHS/CDC is proposing a non-substantive/nonmaterial change to:
- 42 CFR 71.55 Dead Bodies, 42 CFR 71.32(b)—Death certificates (No Form).
- 42 CFR 71.32 Statements or documentation of non-infectiousness (No Form).

[22] CDC (May 10, 2019) Notice of Temporary Suspension of Dogs Entering the United States From Egypt. 84 FR 20628. *https://www.federalregister.gov/documents/2019/05/10/2019-09654/notice-of-temporary-suspension-of-dogs-entering-the-united-states-from-egypt.*

Description of Respondents

Respondents to this data collection are individuals seeking to import human remains into the United States.

There is no burden to respondents other than the time taken to acquire a death certificate for the human remains being imported to the United States or to produce documentation stating that the human remains have been embalmed or otherwise rendered non-infectious. However, death certificates and embalming documentation are routinely produced by mortuary providers or hospitals after a death. DOS also provides a consular mortuary certificate that also commonly states the cause of death for an individual who dies abroad or, if the cause of death is not known, can reference whether the person died of a communicable disease. HHS/CDC does not anticipate significant additional administrative burden in acquiring these documents.

With data provided by CBP, CDC is updating the estimate of the number of imports of human remains that will require a death certificate from 20 to 150, and increasing by 1850 the estimate of the number of human remains that will require some statement or documentation of non-infectiousness. CDC believes this is a more accurate estimate of the volume of imported human remains imported into the United States, and not an increase in respondent burden. As stated above, both of these documents are routinely provided by mortuary services and do not represent an increase in respondent burden specifically for this proposed rulemaking

Additionally, as this NPRM proposes to clarify the requirements for importing human remains, HHS/CDC is also proposing to rename the provision. The associated information collections will clearly reference the title:

- 42 CFR 71.55 Importation of Human Remains—Death Certificate (No Form).
- 42 CFR 71.32, 71.55 Statements or documentation of non-infectiousness (No Form).

Table 5 below presents the estimate of annual burden (in hours) associated with the reporting requirement under this OMB control number, accounting for the proposed rule changes.

TABLE 5—ESTIMATED ANNUAL REPORTING BURDEN 0920–0134

Type of respondent	Regulatory provision or form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Importers	42 CFR 71.55 Importation of Human Remains—Death Certificate (No Form).	150	1	1	150
Importer	42 CFR 71.32, 71.55 Statements or documentation of non-infectiousness (No Form).	3,850	1	5/60	321

The estimates are based on experience to date with current recordkeeping and reporting requirements of 42 CFR 71.55 Dead Bodies—Death Certificate (No Form) and 42 CFR 71.32 Statements or documentation of non-infectiousness, are based on discussion with partners at DOS and DHS.

❨2) Application for Permit to Import Biological Agents and Vectors of Human Disease into the United States and Application for Permit to Import or Transport Live Bats (42 CFR 71.54) (OMB Control No. 0920–0199) No Change Requested—Center for Preparedness and Response, Centers for Disease Control and Prevention.

CDC/DSAT administers OMB Control No. 0920–0199 and does not propose any changes in information collection. Due to DSAT's experience with issuing CDC import permits, DSAT does not expect any additional burden from respondents because respondents understand that any material including human remains that is reasonably suspected of containing an infectious biological agent submits an application for CDC import permit.

On an annual basis, DSAT usually receives approximately 3 applications for importing human remains that are known to contain or reasonably suspected of containing an infectious biological agent. DSAT performs inspection of these requests to ensure that the facility has the appropriate biosafety conditions to receive these materials. DSAT plans to use current resources for processing any applications received for importing human remains that are known to contain or reasonably suspected of containing an infectious biological agent.

E. National Environmental Policy Act (NEPA)

HHS/CDC has determined that the proposed amendments to 42 CFR part 71 will not have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

F. E.O. 12988: Civil Justice Reform

HHS/CDC has reviewed this rule under Executive Order 12988 on Civil Justice Reform and determines that this NPRM meets the standard in the Executive Order.

G. E.O. 13132: Federalism

Under Executive Order 13132, if the rulemaking would limit or preempt State authorities, then a federalism analysis is required. The agency must consult with State and local officials to determine whether the rule would have a substantial direct effect on State or local Governments, as well as whether it would either preempt State law or impose a substantial direct cost of compliance on them.

HHS/CDC has determined that this NPRM will not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

H. Plain Language Act of 2010

Under 63 FR 31883 (June 10, 1998), Executive Departments and Agencies are required to use plain language in all proposed and final rules. HHS/CDC has attempted to use plain language in this rulemaking to make our intentions and rationale clear and requests input from the public in this regard.

List of Subjects in 42 CFR Part 71

Burial, Communicable diseases, Cremation, Death certificate, Entombment, Human remains, Importer, Infectious biological agent, Leak-proof container, Public health, Quarantinable communicable diseases.

For the reasons discussed in the preamble, we propose to amend 42 CFR part 71 as follows:

PART 71—FOREIGN QUARANTINE

■ 1. The authority citation for part 71 continues to read as follows:

Authority: Secs. 215 and 311 of Public Health Service (PHS) Act. as amended (42

U.S.C. 216, 243); secs. 361–369, PHS Act, as amended (42 U.S.C. 264–272).

■ 2. Amend § 71.50(b) by adding, in alphabetical order, the definitions ''Death certificate'', ''Human remains'', ''Importer'', and ''Leak-proof container'' to read as follows:

§ 71.50 Scope and definitions.

* * * * *

(b)* * *

* * * * *

Death certificate means an official government document that certifies that a death has occurred and provides identifying information about the deceased, including (at a minimum) name, age, and sex. The document must also certify the time, place, and cause of death (if known). If the official government document is not written in English, then it must be accompanied by an English language translation of the official government document, the authenticity of which has been attested to by a person licensed to perform acts in legal affairs in the country where the death occurred. In lieu of a death certificate, a copy of the Consular Mortuary Certificate and the Affidavit of Foreign Funeral Director and Transit Permit, shall together constitute acceptable identification of human remains.

* * * * *

Human remains means a deceased human body or any portion of a deceased human body, except:

(i) Clean, dry bones or bone fragments; human hair; teeth; fingernails or toenails; or

(ii) A deceased human body and portions thereof that have already been fully cremated prior to import; or

(iii) Human cells, tissues or cellular or tissue-based products intended for implantation, transplantation, infusion, or transfer into a human recipient.

Importer means any person importing or attempting to import an item regulated under this subpart.

* * * * *

Leak-proof container means a container that is puncture-resistant and sealed in such a manner as to contain all contents and prevent leakage of fluids during handling, storage, transport, or shipping, such as

(i) A double-layered plastic, puncture-resistant body bag (*i.e.,* two sealed body bags, one inside the other);

(ii) A casket with an interior lining certified by the manufacturer to be leak-proof and puncture-resistant; or

(iii) A sealed metal body-transfer case.

* * * * *

■ 3. Revise § 71.55 to read as follows:

§ 71.55 Importation of human remains.

(a) Human remains imported into the United States, or in transit within the United States and not intended for import, must be fully contained within a leak-proof container that is packaged and shipped in accordance with all applicable legal requirements.

(b) The provisions of § 71.54 shall apply to all imported human remains known to contain or reasonably suspected of containing an infectious biological agent.

(c) Unless accompanied by a permit issued under § 71.54, human remains imported into the United States must meet one of the following requirements:

(1) Human remains imported for burial, entombment, or cremation must:

(i) Be consigned directly to a licensed mortuary, cemetery, or crematory for immediate and final preparation prior to burial, entombment, or cremation; and

(ii) Unless embalmed, be accompanied by a death certificate or, if the death certificate is incomplete or missing, an importer certification statement confirming that the human remains are not known to contain or stating why the human remains are not reasonably suspected of containing an infectious biological agent.

(2) Human remains imported for medical examination or autopsy must:

(i) Be consigned directly to an entity authorized to perform such functions under the laws of the applicable jurisdiction prior to subsequent burial, entombment, or cremation; and

(ii) Unless embalmed, be accompanied by a death certificate or, if the death certificate is incomplete or missing, an importer certification statement confirming that the human remains are not known to contain or stating why the human remains are not reasonably suspected of containing an infectious biological agent.

(3) Human remains imported for any other purpose, unless embalmed, must be accompanied by an importer certification statement confirming that the human remains are not known to contain or stating why the human remains are not reasonably suspected of containing an infectious biological agent.

(d) The Director may suspend the importation of human remains under 42 CFR 71.63 if the Director designates the foreign country and determines that such an action is necessary to protect the public health.

Dated: October 31, 2019.

Alex M. Azar II,

Secretary, Department Of Health and Human Services.

[FR Doc. 2019–24943 Filed 11–22–19; 8:45 am]

BILLING CODE 4163–18–P

Notices

Federal Register
Vol. 84, No. 227
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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 20, 2019.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by December 26, 2019 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: Food Distribution Programs.

OMB Control Number: 0584–0293.

Summary of Collection: The Food Distribution Programs of the Department of Agriculture (USDA), Food and Nutrition Service (FNS) assist American farmers and needy people by purchasing USDA donated foods and delivering them to State agencies that, in turn, distribute them to organizations who provide food assistance to those in need. The USDA donated foods help to meet the nutritional needs of: (a) Children from preschool age through high school in FNS Child Nutrition Programs and in nonprofit summer camps; (b) needy persons in households on Indian reservations participating in the Food Distribution Program on Indian Reservations (FDPIR) or the Food Distribution Program for Indian Households in Oklahoma (FDPIHO); (c) needy persons served by charitable institutions; (d) elderly persons participating in the Commodity Supplemental Food Program (CSFP); (e) low-income, unemployed or homeless people provided foods through household distributions or meals through soup kitchens under the Emergency Food Assistance Program (TEFAP); (f) pre-school and school-age children, elderly, and functionally impaired adults enrolled in child and adult day care centers participating in the Child and Adult Care Food Program (CACFP); and (g) victims of Presidentially-declared disasters and other situations of distress. The following authorizing legislation allows the Secretary broad authority to establish regulatory provisions governing accountability in the use of USDA donated foods by Federal, State, and private agencies: (a) Section 4(b) of the Food and Nutrition Act of 2008, as amended (7 U.S.C. 2013(b)); (b) Sections 6, 14, and 17 of the National School Lunch Act, as amended (42 U.S.C. 1755, 1762(a), 1766); (c) Section 4 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1733); (d) The Emergency Food Assistance Act of 1983, as amended (7 U.S.C. 7501 *et seq.*); and (e) Sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973, as amended (7 U.S.C. 612c note).

Need and Use of the Information: FNS collects information from state and local agencies, for-profit and non-profit businesses, and individuals and households. This collection is mandatory for the states, local agencies and the businesses, but it is required to obtain or maintain benefits for the individuals and households. The information collected from the state and local agencies is used for a variety of program activities such as ordering USDA foods; arranging for their delivery to storage facilities; sharing information concerning inaccurate or incomplete orders; providing inventory data; applying to participate in the programs and preparing plans to initiate or continue program operations; recovering unused funds; responding to audits; conducting on-site reviews; reporting on financial status and administrative costs; and other program monitoring activities. The information collected from the individuals and households permits them to apply for benefits (including assistance during disasters or situations of distress) or to recertify their eligibility. FNS uses this information to manage the Food Distribution Programs and monitor the use of Federal funds.

Description of Respondents: State, Local, or Tribal Government; Business or other for-profit; Not-for-profit institutions; and Individuals or households.

Number of Respondents: 638,170.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Quarterly; Semi-annually; Monthly; and Annually.

Total Burden Hours: 1,161,151.

Food and Nutrition Service

Title: Child and Adult Care Food Program (CACFP) National Disqualified List.

OMB Control Number: 0584–0584.

Summary of Collection: Section 243(c) of Public Law 106–224, the Agricultural Risk Protection Act of 2000, amended 42 U.S.C. 1766 (d)(5)(E)(i) and (ii) of the Richard B. Russell National School Lunch Act (NSLA) by requiring the Department of Agriculture to maintain a list of institutions, day care home providers, and individuals that have been terminated or otherwise disqualified from CACFP participation. The law also requires the Department to make the list available to State agencies for their use in reviewing applications

to participate and to sponsoring organizations to ensure that they do not employ as principals any persons who are disqualified from the program. This statutory mandate has been incorporated into § 226.6(c)(7) of the Program regulations.

Need and Use of the Information: The Food and Nutrition Service (FNS) uses forms FNS–843 Report of Disqualification from Participation—Institution and Responsible Principals/Individuals and FNS–844 Report of Disqualification from Participation—Individually Disqualified Responsible Principal/Individual or Day Care Home Provider to collect and maintain the disqualification data. The State agencies use these forms, which are accessed through a web-based National Disqualification List (NDL) system, to collect the contact information and the disqualification information and reasons on all individuals and institutions that have been disqualified and are therefore ineligible to participate in CACFP. The information is collected from State agencies as the disqualifications occur so that the list is kept current. By maintaining the web-based system, the Department ensures program integrity by making the NDL data available to sponsoring organizations and State agencies so that no one who has been disqualified can participate in CACFP. Without this data collection, State agencies would not be able to prevent individuals and institutions disqualified in other States from reapplying to participate in CACFP.

Description of Respondents: State, Local, or Tribal Government.

Number of Respondents: 56.

Frequency of Responses: Reporting: On occasion; Other (as needed).

Total Burden Hours: 784.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–25530 Filed 11–22–19; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2019–0064]

International Sanitary and Phytosanitary Standard-Setting Activities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with legislation implementing the results of the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade, we are informing the public of the international standard-setting activities of the World Organization for Animal Health, the Secretariat of the International Plant Protection Convention, and the North American Plant Protection Organization, and we are soliciting public comment on the standard-setting activities.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2019-0064.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2019–0064, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2019-0064* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For general information on the topics covered in this notice, contact Ms. Jessica Mahalingappa, Associate Deputy Administrator for International Services, APHIS, Room 1132, USDA South Building, 14th Street and Independence Avenue SW, Washington, DC 20250; (202) 799–7121.

For specific information regarding standard-setting activities of the World Organization for Animal Health, contact Dr. Michael David, Director, International Animal Health Standards, Veterinary Services, APHIS, 4700 River Road, Unit 33, Riverdale, MD 20737; (301) 851–3302.

For specific information regarding the standard-setting activities of the International Plant Protection Convention, contact Dr. Marina Zlotina, IPPC Technical Director, International Phytosanitary Standards, PPQ, APHIS, 4700 River Road, Unit 130, Riverdale, MD 20737; (301) 851–2200.

For specific information on the North American Plant Protection Organization, contact Ms. Patricia Abad, NAPPO Technical Director, International Phytosanitary Standards, PPQ, APHIS, 4700 River Road, Unit 130, Riverdale, MD 20737; (301) 851–2264.

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established as the common international institutional framework for governing trade relations among its members in matters related to the Uruguay Round Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade. U.S. membership in the WTO was approved by Congress when it enacted the Uruguay Round Agreements Act (Pub. L. 103–465), which was signed into law on December 8, 1994. The WTO Agreements, which established the WTO, entered into force with respect to the United States on January 1, 1995. The Uruguay Round Agreements Act amended Title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 *et seq.*). Section 491 of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2578), requires the President to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization. The designated agency must inform the public by publishing an annual notice in the **Federal Register** that provides the following information: (1) The SPS standards under consideration or planned for consideration by the international standard-setting organization; and (2) for each SPS standard specified, a description of the consideration or planned consideration of that standard, a statement of whether the United States is participating or plans to participate in the consideration of that standard, the agenda for U.S. participation, if any, and the agency responsible for representing the United States with respect to that standard.

''International standard'' is defined in 19 U.S.C. 2578b as any standard, guideline, or recommendation: (1) Adopted by the Codex Alimentarius Commission (Codex) regarding food safety; (2) developed under the auspices of the World Organization for Animal Health (OIE, formerly known as the Office International des Epizooties) regarding animal health and welfare and zoonoses; (3) developed under the auspices of the Secretariat of the International Plant Protection Convention (IPPC or the Convention) and the North American Plant Protection Organization (NAPPO) regarding plant health; or (4) established by or developed under any other international organization agreed to by the member countries of the North American Free Trade Agreement

(NAFTA) or the member countries of the WTO.

The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the Secretary of Agriculture as the official responsible for informing the public of the SPS standard-setting activities of Codex, OIE, IPPC, and NAPPO. The United States Department of Agriculture's (USDA's) Food Safety and Inspection Service (FSIS) informs the public of Codex standard-setting activities, and USDA's Animal and Plant Health Inspection Service (APHIS) informs the public of OIE, IPPC, and NAPPO standard-setting activities.

FSIS publishes an annual notice in the **Federal Register** to inform the public of SPS standard-setting activities for Codex. Codex was created in 1962 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. It is the major international organization for encouraging international trade in food and protecting the health and economic interests of consumers.

APHIS is responsible for publishing an annual notice of OIE, IPPC, and NAPPO activities related to international standards for plant and animal health and representing the United States with respect to these standards. Following are descriptions of the OIE, IPPC, and NAPPO organizations and the standard-setting agenda for each of these organizations. We have described the agenda that each of these organizations will address at their annual general sessions, including standards that may be presented for adoption or consideration, as well as other initiatives that may be underway at the OIE, IPPC, and NAPPO.

The agendas for these meetings are subject to change, and the draft standards identified in this notice may not be sufficiently developed and ready for adoption as indicated. Also, while it is the intent of the United States to support adoption of international standards and to participate actively and fully in their development, it should be recognized that the U.S. position on a specific draft standard will depend on the acceptability of the final draft. Given the dynamic and interactive nature of the standard-setting process, we encourage any persons who are interested in the most current details about a specific draft standard or the U.S. position on a particular standard-setting issue, or in providing comments on a specific standard that may be under development, to contact APHIS. Contact information is provided at the beginning of this notice under **FOR FURTHER INFORMATION CONTACT**.

OIE Standard-Setting Activities

The OIE was established in Paris, France, in 1924 with the signing of an international agreement by 28 countries. It is currently composed of 182 Members, each of which is represented by a delegate who, in most cases, is the chief veterinary officer of that country or territory. The WTO has recognized the OIE as the international forum for setting animal health standards, reporting global animal disease events, and presenting guidelines and recommendations on sanitary measures relating to animal health.

The OIE facilitates intergovernmental cooperation to prevent the spread of contagious diseases in animals by sharing scientific research among its Members. The major functions of the OIE are to collect and disseminate information on the distribution and occurrence of animal diseases and to ensure that science-based standards govern international trade in animals and animal products. The OIE aims to achieve these through the development and revision of international standards for diagnostic tests, vaccines, and the safe international trade of animals and animal products.

The OIE provides annual reports on the global distribution of animal diseases, recognizes the free status of Members for certain diseases, categorizes animal diseases with respect to their international significance, publishes bulletins on global disease status, and provides animal disease control guidelines to Members. Various OIE commissions and working groups undertake the development and preparation of draft standards, which are then circulated to Members for consultation (review and comment). Draft standards are revised accordingly and are presented to the OIE World Assembly of Delegates (all the Members) for review and adoption during the General Session, which meets annually every May. Adoption, as a general rule, is based on consensus of the OIE membership.

The most recent OIE General Session occurred May 26 to 31, 2019, in Paris, France. The Deputy Administrator (a.k.a., Chief Veterinary Officer) for APHIS' Veterinary Services program serves as the official U.S. Delegate to the OIE at this General Session. Information about OIE draft Terrestrial and Aquatic Animal Health Code chapters may be found on the internet at *https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/export/international-standard-setting-activities-oie/regionalization/ct_international_standard_setting_activities_oie* or by contacting Dr. Michael David (see **FOR FURTHER INFORMATION CONTACT** above).

OIE Terrestrial and Aquatic Animal Health Code Chapters Adopted During the May 2019 General Session

Eleven Code chapters were amended, rewritten, or newly proposed and presented for adoption at the General Session. The following Code chapters are of particular interest to the United States:

1. Chapter 1.4., *Animal Health Surveillance*. Amendments to chapter included changes to the use of the terms ''target population'' and ''study population.''

2. Chapter 4.Z., *Introduction to recommendations for the prevention and control of transmissible animal diseases*. This is a new chapter that has been reviewed in prior comment cycles and provides general considerations when controlling animal diseases.

3. Articles 7.13.4. and 7.13.15., *Animal welfare and pig production systems*. The United States supported the adoption of this new chapter in 2018. Minor editorial amendments were adopted in 2019.

4. Chapter 7.Y., *Killing of reptiles for their skins, meat and other products*. This is a newly adopted chapter that has been reviewed in prior comment cycles.

5. Chapter 8.14., *Infection with rabies virus*. The Code Commission highlighted the current global priority to control and eradicate dog-mediated rabies, and adopted changes to the chapter that are aligned with that priority. Additional provisions addressing wildlife vectors will be considered in the next revision of the chapter.

6. Article 14.4.1., *Infection with Chlamydophila abortus (Enzootic abortion of ewes, ovine chlamydiosis)*. The name of the pathogenic agent changed from *Chlamydophila abortus* to *Chlamydia abortus*.

7. Articles 15.1.1bis, 15.1.2., 15.1.3., 15.1.16., 15.1.22., 15.1.31., *Infection with African swine fever virus*. Amendments were made to strengthen the recommendations for testing wild or feral pigs found dead, road kills, animals showing abnormal behavior, and hunted animals sampled in surveillance programs.

OIE Terrestrial Animal Health Code Chapters for Upcoming and Future Review

- Chapter 1.1., *Notification of diseases, infections and infestations, and provision of epidemiological information*.

- Chapter 1.6., *Procedures for self-declaration and for official recognition by the OIE*.
- Chapter 3.4., *Veterinary legislation*.
- Chapter 4.Y., *Draft new chapter on official control programs for listed and emerging diseases*.
- Chapter 7.Z., *Draft new chapter on animal welfare and laying hen production systems*.
- Chapter 10.4., *Infection with avian influenza viruses*.
- Chapter 15.2., *Infection with classical swine fever virus*.
- Chapter 8.11., *Infection with Mycobacterium tuberculosis complex*.
- Chapter 8.15., *Infection with Rift Valley fever virus*.
- Article 12.6.6., *Infection with equine influenza*.
- Articles 14.7.3. and 14.7.34., *Infection with peste des petits ruminants virus*.

IPPC Standard-Setting Activities

The IPPC is a multilateral convention adopted in 1952 to prevent the spread and introduction of pests of plants and plant products and to promote appropriate measures for their control. The WTO recognizes the IPPC as the standard setting body for plant health. Under the IPPC, the understanding of plant protection encompasses the protection of both cultivated and non-cultivated plants from direct or indirect injury by plant pests. The IPPC addresses the following activities: Developing, adopting, and implementing international standards for phytosanitary (plant health) measures (ISPMs); harmonizing phytosanitary activities through adopted standards; facilitating the exchange of official and scientific information among contracting parties; and providing technical assistance to developing countries that are contracting parties to the Convention.

The IPPC is deposited within the Food and Agriculture Organization of the United Nations and is an international agreement of 183 contracting parties. National plant protection organizations (NPPOs), in cooperation with regional plant protection organizations, the Commission on Phytosanitary Measures (CPM), and the Secretariat of the IPPC, implement the Convention. The IPPC continues to be administered at the national level by plant quarantine officials, whose primary objective is to safeguard plant resources from injurious pests. In the United States, the NPPO is APHIS' Plant Protection and Quarantine (PPQ) program.

The 14th Session of the CPM took place from April 1 to 5, 2019, in Rome, Italy, at the Headquarters of the Food and Agriculture Organization of the United Nations. The Deputy Administrator for APHIS' PPQ program was the U.S. delegate to the CPM.

The CPM adopted the following standards at its 2019 meeting. The United States, represented by the Deputy Administrator for APHIS' PPQ program, participated in deliberations of these standards. The United States developed its position on each of these issues prior to the CPM session, which were based on APHIS' analyses and other relevant information from other U.S. Government agencies and interested stakeholders:

- ISPM 5: *Glossary of phytosanitary terms* (2019 revisions).
- ISPM 43: *Requirements for the use of fumigation as a phytosanitary measure*.
- Diagnostic protocols (DPs) as Annexes to ISPM 27: Diagnostic protocols for regulated pests:
  - DP 2: *Plum pox virus* (2018 revisions).
  - DP 25: *Xylella fastidiosa*.
  - DP 26: *Austropuccinia psidii*.
  - DP 27: *Ips* spp.
  - DP 28: *Conotrachelus nenuphar*.
  - DP 29: *Bactrocera dorsalis*.

The CPM also adopted Recommendation R08, ''Preparing to use high-throughput sequencing (HTS) technologies as a diagnostic tool for phytosanitary purposes.''

The CPM added to the IPPC work program new topics for 13 standards and 12 tools to implement standards, which were submitted by the contracting parties during 2018 call for topics.

In addition to adopting these plant health standards, the 2019 Commission meeting also progressed a number of plant health initiatives strategically important to the United States. These initiatives include endorsing the new IPPC strategic framework for 2020–2030 to set the top priorities for plant health and trade into the next decade, approving an electronic certification system (ePhyto) implementation plan to support trade and identifying next steps for its longer term worldwide application, developing programs aimed at improving the use and implementation of standards around the world, and planning events and activities for the International Year of Plant Health in 2020 to mobilize worldwide awareness and support for plant health going into the next decade.

New IPPC Standard-Setting Initiatives, Including Those Under Development

A number of expert working group (EWG) meetings or other technical consultations took place October 2018 through September 2019 on the topics listed below. These standard-setting initiatives are under development and may be considered for future adoption. APHIS intends to participate actively and fully in each of these working groups. APHIS developed its position on each of the topics prior to the working group meetings. The APHIS position was based on technical analyses, information from other U.S. Government agencies, and relevant scientific information from interested stakeholders:

- EWG on Audit in the Phytosanitary Context.
- Technical Panel on Diagnostic Protocols.
- Technical Panel on Phytosanitary Treatments.
- Technical Panel for the Glossary.
- Focus Group on Commodity Standards.
- Sea Container Task Force.

For more detailed information on the above, contact Dr. Marina Zlotina (see **FOR FURTHER INFORMATION CONTACT** above).

PPQ actively works to achieve broad participation by States, industry, and other stakeholders in the development and use of international and regional plant health standards, including through the use of APHIS Stakeholder Registry notices [1] and the APHIS public website. Plant health stakeholders are strongly encouraged to comment on draft standards, documents, and specifications during the consultation periods. In 2019, 13 draft standards were open for consultation. APHIS posts links to draft standards on its website as they become available and provides information on the due dates for comments.[2] Additional information on IPPC standards (including the IPPC work program (list of topics [3]), calls for new standards, experts to serve on technical panels and other working groups, proposed phytosanitary treatments, standard-setting process, and adopted standards) is available on the IPPC website.[4] For the most current information on official U.S. participation in IPPC activities, including U.S. positions on standards being considered, contact Dr. Marina

[1] To sign up for the Stakeholder Registry, go to: *https://public.govdelivery.com/accounts/USDAAPHIS/subscriber/new*.

[2] For more information on the IPPC draft ISPM consultation: *https://www.aphis.usda.gov/aphis/ourfocus/planthealth/international/sa_phytostandards/ct_draft_standards*.

[3] IPPC list of topics: *https://www.ippc.int/en/core-activities/standards-setting/list-topics-ippc-standards/*.

[4] IPPC website: *https://www.ippc.int/*.

Zlotina (see **FOR FURTHER INFORMATION CONTACT** above). Those wishing to provide comments on any of the areas of work being undertaken by the IPPC may do so at any time by responding to this notice (see **ADDRESSES** above) or by providing comments through Dr. Zlotina.

NAPPO Standard-Setting Activities

NAPPO, a regional plant protection organization created in 1976 under the IPPC, coordinates the efforts among the United States, Canada, and Mexico to protect their plant resources from the entry, establishment, and spread of harmful plant pests, while facilitating intra- and inter-regional trade. As the NPPO of the United States, APHIS' PPQ is the organization officially identified to participate in NAPPO. Through NAPPO, APHIS works closely with its regional counterparts and industries to develop harmonized regional standards and approaches for managing pest threats. NAPPO conducts its work through priority-driven annual projects approved by the NAPPO Executive Committee and conducted by expert groups, including subject matter experts from each member country and regional industry representatives. Project results and updates are provided during the NAPPO annual meeting. Projects can include the development of positions, policies, technical documents, or the development or revision of regional standards for phytosanitary measures (RSPMs). Projects can also include implementation of standards or other capacity development activities such as workshops.

The 42nd NAPPO annual meeting was held October 22 to 25, 2018, in Tucson, AZ. The meeting featured several strategic topics related to NAPPO's work program (*e.g.,* seeds, plants for planting, accreditation, and forestry), as well as discussions on ePhyto, sea containers, e-Commerce, and trade facilitation. The meeting also featured a 1-day symposium that helped drive critical conversations among NAPPO countries about the importance of using risk-based approaches and developing precision safeguarding strategies using cutting-edge science and technology to maximize risk management. The NAPPO Executive Committee meetings took place on October 22 and 26, 2018, February 20, 2019, and July 24, 2019. The Deputy Administrator for PPQ is the U.S. member of the NAPPO Executive Committee.

The NAPPO expert groups, including member countries' subject matter experts, finalized the following regional standards, documents, products, and projects in 2018–2019:

- Completed a Spanish language online training module on RSPM 12: Preparation of a Petition for First Release of a Non-indigenous Entomophagous Biological Control Agent. The English language module was completed the previous year.
- Organized and delivered a Western Hemisphere Workshop to promote the effective and harmonized implementation of ISPM 38: International movement of seeds in March 2019 in San Jose, Costa Rica. Participants in the workshop included more than 50 participants from the Americas represented by 13 NPPOs, 4 regional plant protection organizations, international and regional as well as national seed associations, companies related to seed production, and academia. The Inter-American Institute for Cooperation in Agriculture (IICA) also contributed to this event.
- Completed NAPPO RSPM 41: Use of Systems Approaches to Manage Pest Risks Associated with the Movement of Forest Products. The NAPPO Executive Committee approved this document during the 2018 October NAPPO annual meeting.
- Completed NAPPO Discussion Document 10: North American approach to preventing the introduction, establishment and spread of khapra beetle in the NAPPO Region. The document was finalized in April 2018.
- Completed and published proceedings of the first International Symposium on Risk-Based Sampling held in June 2017 in Baltimore, MD. Proceedings were made available in August 2018 (English). With the support from IICA, NAPPO completed the Spanish version in October 2018.
- Issued via NAPPO's Phytosanitary Alert System: 34 Official Pest Reports and 5 Emerging Pest Alerts for Fiscal Year 2019 (from October 2018 to September 2019).

In addition, NAPPO conducted a call for new project proposals for its 2020 Work Program during the period of April 1, 2019 to May 30, 2019. U.S. stakeholders were invited to submit topics through APHIS.

New NAPPO Standard-Setting Initiatives, Including Those in Development

The 2019 work program [5] includes the following topics being worked on by NAPPO expert groups and NAPPO's Advisory and Management Committee. APHIS is actively and fully participating in the 2019 NAPPO work program. The APHIS position on each topic is guided and informed by the best technical and scientific information available, as well as on relevant input from stakeholders. For each of the following, where applicable, the United States will consider its position on any draft standard after it reviews a prepared draft. Information regarding the following NAPPO projects, assignments, activities, and updates on meeting times and locations may be obtained from the NAPPO website or by contacting Ms. Patricia Abad (see **FOR FURTHER INFORMATION CONTACT** above).

1. Revision of RSPM 22: Guidelines for construction and operation of a containment facility for insects and mites used as biological control agents.
2. Forest Products: Develop a NAPPO Science and Technology document to provide scientific background on live contaminating organisms on phytosanitary-certified wood products and IPPC-marked wood packaging and provide guidance regarding actions appropriate for addressing associated phytosanitary risks.
3. Revision of RSPM 17: Guidelines for the Establishment, Maintenance, and Verification of Fruit Fly Free Areas in North America.
4. Support the International Year of Plant Health (IYPH): Exchange ideas, develop appropriate materials, and support IYPH events in the NAPPO region.
5. Revision of RSPM 9: Authorization of Laboratories for Phytosanitary Testing.
6. Revision of RSPM 35: Guidelines for the Movement of Stone and Pome Fruit Trees and Grapevines into a NAPPO Member Country.
7. Implementation of ISPM 38—International movement of seeds: Complete and publish proceedings from 2019 Hemispheric Workshop on ISPM 38 (organized by NAPPO).
8. Lymantriids: Complete a NAPPO Science and Technology document on the risks associated with Lymantriids of concern to the NAPPO region, identifying potential species and pathways of concern.
9. Risk-Based Sampling: Complete and publish a Risk-Based Sampling Manual.
10. Asian Gypsy Moth: Validate specific risk periods for regulated Asian gypsy moth in countries of origin.
11. Foundation and Procedure documents: Continue to update and finalize various NAPPO foundation or procedure documents.
12. Phytosanitary Alert System: Continue to manage the NAPPO pest reporting system.

[5] NAPPO work program: *http://nappo.org/files/5015/5386/7708/EC-4-2019_NAPPO_Work_Program-with_IYPH-e.pdf.*

13. Update Pest List for RSPM 3: Movement of Potatoes into a NAPPO Member Country.

14. Electronic phytosanitary certification (ePhyto): Provide assistance and technical support to the IPPC ePhyto Steering Group.

15. Stakeholder Engagement: Plan, coordinate and execute activities for the October 2019 NAPPO Annual Meeting in Montreal, Canada, and publish the quarterly newsletter.

16. Regional Collaboration: Collaboration, focused on information exchange, with the Inter-American Coordinating Group in Plant Protection, via Technical Working Groups on ePhyto, citrus greening (Huanglongbing), fruit flies, and *Tuta absoluta.*

The PPQ Assistant Deputy Administrator, as the official U.S. delegate to NAPPO, intends to participate in the adoption of these regional plant health standards and projects, including the work described above, once they are completed and ready for such consideration.

The information in this notice contains all the information available to us on NAPPO standards or projects under development or consideration. For updates on meeting times and for information on the expert groups that may become available following publication of this notice, visit the NAPPO website or contact Ms. Patricia Abad (see **FOR FURTHER INFORMATION CONTACT** above). PPQ actively works to achieve broad participation by States, industry, and other stakeholders in the development and use of international and regional plant health standards, including through the use of APHIS Stakeholder Registry notices and the APHIS public website. Plant health stakeholders are strongly encouraged to comment on draft standards, documents, and specifications during consultation periods. APHIS posts links to draft standards on the internet as they become available and provides information on the due dates for comments.[6] Additional information on NAPPO standards (including the NAPPO Work Program, standard setting process, and adopted standards) is available on the NAPPO website.[7] Information on official U.S. participation in NAPPO activities, including U.S. positions on standards being considered, may also be obtained from Ms. Abad. Those wishing to provide comments on any of the topics being addressed in the NAPPO work program may do so at any time by responding to this notice (see **ADDRESSES** above) or by transmitting comments through Ms. Abad.

Done in Washington, DC, this 18th day of November 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–25443 Filed 11–22–19; 8:45 am]

BILLING CODE 3410–34–P

[6] For more information on the NAPPO draft RSPM consultation: *https://www.aphis.usda.gov/aphis/ourfocus/planthealth/international/sa_phytostandards/ct_draft_standards.*

[7] NAPPO website: *http://nappo.org/.*

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2018–0066]

Plants for Planting Whose Importation Is Not Authorized Pending Pest Risk Analysis; Notice of Availability of Data Sheets for Taxa of Plants for Planting That are Quarantine Pests or Hosts of Quarantine Pests

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have determined that 26 taxa of plants for planting are quarantine pests, and that all Myrtaceae taxa (when destined to Hawaii), all subfamily Bambusoideae taxa, and 43 other taxa of plants for planting are hosts of 18 quarantine pests, and therefore should be added to our lists of taxa of plants for planting whose importation is not authorized pending pest risk analysis. We have prepared data sheets that detail the scientific evidence we evaluated in making the determination that the taxa are quarantine pests or hosts of quarantine pests. We are making these data sheets available to the public for review and comment.

DATES: We will consider all comments that we receive on or before January 24, 2020.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal*: Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0066.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2018–0066, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

The data sheets and any comments we receive may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0066* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Indira Singh, Botanist, Plants for Planting Policy, IRM, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1236; (301) 851–2020.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in ''Subpart H—Plants for Planting'' (7 CFR 319.37–1 through 319.37–23, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture prohibits or restricts the importation of plants for planting (including living plants, plant parts, seeds, and plant cuttings) to prevent the introduction of quarantine pests into the United States. *Quarantine pest* is defined in § 319.37–2 as a plant pest or noxious weed that is of potential economic importance to the United States and not yet present in the United States, or present but not widely distributed and being officially controlled.

Section 319.37–4 of the regulations provides that certain plants for planting are not authorized importation into the United States pending pest risk analysis (NAPPRA) in order to prevent the introduction of quarantine pests into the United States. There are two lists of taxa whose importation is NAPPRA: A list of taxa of plants for planting that are quarantine pests themselves, and a list of taxa of plants for planting that are hosts of quarantine pests. For taxa of plants for planting that have been determined to be quarantine pests, the list includes the names of the taxa. For taxa of plants for planting that are hosts of quarantine pests, the list includes the names of the taxa, the foreign countries from which the taxa's importation is not authorized, and the quarantine pests of concern.

Paragraph (b) of § 319.37–4 describes the process for adding taxa to the NAPPRA lists. In accordance with that process, this notice announces our determination that 26 taxa of plants for planting are quarantine pests, and that all Myrtaceae taxa (when destined to Hawaii), all subfamily Bambusoideae taxa, and 43 other taxa of plants for planting are hosts of 18 quarantine pests.

This notice also makes available data sheets that detail the scientific evidence

we evaluated in making the determination that the taxa are quarantine pests or hosts of a quarantine pest. The data sheets include references to the scientific evidence we used in making these determinations.

A complete list of the taxa of plants for planting that we have determined to be quarantine pests or hosts of quarantine pests, along with the data sheets supporting those determinations, may be viewed on the internet [1] or in our reading room (see **ADDRESSES** above for information on the location and hours of the reading room). You may request paper copies of the list and data sheets by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. For taxa of plants for planting that are hosts of quarantine pests, the data sheets specify the countries from which the taxa's importation would not be authorized pending pest risk analysis.

Proposed Revision to Criteria for ''Significant Trade''

In a notice published in the **Federal Register** on May 6, 2013 (78 FR 26316–26317, Docket No. APHIS–2012–0076), we proposed to exempt taxa from NAPPRA requirements if there was ''significant trade'' between an exporting country and the United States in the taxon and if the imported plants had generally been determined to be pest free based on inspection at ports of entry. We stated that, generally, we would consider the importation from a country of 10 or more plants in each of last 3 fiscal years to constitute ''significant trade.'' We affirmed this as our criterion for an exemption from NAPPRA requirements in a notice published in the **Federal Register** on June 19, 2017 (82 FR 27786–27792, Docket No. APHIS–2012–0076).

In this notice, we are proposing to add *Jasminum* spp. plants for planting from South Africa to NAPPRA, and *Catharanthus* spp. plants for planting from Canada to NAPPRA, even though, in both instances, import history of the taxa slightly exceeds the ''significant trade'' threshold articulated in the 2013 and 2017 notices. This is because we consider the plant pest associated with *Jasminum* spp. and *Catharanthus* spp. plants for planting, *Brevipalpus chilensis,* to be high risk. Because of the possibility of significant adverse impacts on U.S. agriculture if *B. chilensis* were to become established within the United States, we decided that imports of at least 10 plants for each of the last 3 fiscal years would not be sufficient in order for us to have assurances that the importation of the taxa does not present a risk of introducing *B. chilensis*. For those two taxa, we decided that imports would also have to exceed 100 or more plants at least once in the previous 3 fiscal years for this to constitute ''significant trade'' in the taxa. For other taxa that we are proposing to list on NAPPRA, the ''significant trade'' criterion articulated in the 2013 and 2017 notices still apply.

Zea spp. From Guatemala and Pennisetum glaucum From Chile

On a related matter, in the 2017 final notice, we added corn (*Zea* spp.) seed imports from Guatemala and *Pennisetum glaucum (Cenchrus americanus*) seed imports from Chile to NAPPRA due to an apparent lack of ''significant trade.'' Since then, U.S. importers have provided import data, which we have corroborated, indicating that corn seed imports from Guatemala and *P. glaucum* seed imports from Chile met the threshold for ''significant trade'' set forth in that notice and should not have been added to NAPPRA. We are therefore proposing to remove corn seed imports from Guatemala and *P. glaucum* seed imports from Chile from NAPPRA.

After reviewing any comments we receive, we will announce our decision regarding the addition of the taxa described in the data sheets to the NAPPRA lists, our proposed revision to the ''significant trade'' criterion, and our proposed removal of *Zea* spp. from Guatemala and *P. glaucum* from Chile from NAPPRA, in a subsequent notice. If the Administrator's determination that the taxa are quarantine pests or hosts of quarantine pests remains unchanged following our consideration of the comments, then we will add the taxa described in the data sheets to the appropriate NAPPRA list.

Authority: 7 U.S.C. 1633 and 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 18th day of November 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–25439 Filed 11–22–19; 8:45 am]

BILLING CODE 3410–34–P

[1] See *https://www.aphis.usda.gov/aphis/ourfocus/planthealth/import-information/permits/plants-and-plant-products-permits/plants-for-planting/ct_nappra.*

DEPARTMENT OF AGRICULTURE

Forest Service

Proposed New Recreation Fees: George Washington and Jefferson National Forests; Correction

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed new recreation fees; Correction.

SUMMARY: The Forest Service published a document in the **Federal Register** on September 30, 2019, requesting for comments on proposed new recreation fees for three recreation sites on the George Washington and Jefferson National Forests. The document contained incorrect information on the type of fee and features of recreation sites required in order to charge that fee type. The Forest Service is reopening the comment period. The previous comment period ended on October 15, 2019. In addition to comments received under this notice, comments previously submitted in response to the notice published during the comment period announced September 30, 2019, will be considered.

DATES: Comments on the fee changes will be accepted through December 10, 2019. The fees will become available pending a recommendation from the Southern Region Recreation Resource Advisory Committee. If approved by the Regional Forester, implementation of new fees will occur no sooner than 180 days from the date of publication in the **Federal Register**.

ADDRESSES: Written comments concerning this notice should be addressed to the Supervisor's Office at: Joby P. Timm, Forest Supervisor, George Washington and Jefferson National Forests, 5162 Valleypointe Parkway, Roanoke, VA 24019, Attention Recreation Fee Coordinator.

FOR FURTHER INFORMATION CONTACT: Ginny Williams, Recreation Fee Coordinator, 540–265–5166. Information about proposed fee changes can also be found on the George Washington and Jefferson National Forests website: *https://www.fs.usda.gov/gwj.*

SUPPLEMENTARY INFORMATION:

Correction: In the **Federal Register** of September 30, 2019, in FR Doc. 2019–21164, on page 51510, in the first column, correct the fifth paragraph to read:

Once public involvement is complete, these new fees will be reviewed by the Southern Region Recreation Resource Advisory Committee prior to a final decision and implementation. These sites have all the required features to

allow a fee to be charged. Those features include designated parking area, permanent toilets, increased patrols, and picnic tables. These expanded amenity fee sites will honor all applicable Interagency Passes.

Dated: October 30, 2019.

Richard A. Cooksey,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2019–25434 Filed 11–22–19; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Proposed New Recreation Fees: Shawnee National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed new recreation fees.

SUMMARY: The Shawnee National Forest is proposing to charge new fees at six recreation sites. All sites are highly developed day use sites with significant infrastructure. They provide amenities and special opportunities that are beyond those typical of Shawnee National Forest day use sites. Fees are assessed based on the level of amenities and services provided, cost of operation and maintenance, market assessment, and public comment. The fees listed are proposed and will be determined upon further analysis and public comment. Funds from fees would be used for the continued operation and maintenance of these recreation sites. An analysis of the nearby state and private recreation opportunities with similar amenities show that the proposed fees are reasonable for the area.

DATES: Comments on the fee changes will be accepted December 26, 2019. Following the public comment period, the fee proposal will be subject to review and recommendation by the Eastern Region Recreation Resource Advisory Committee. If approved by the Regional Forester, implementation of new fees will occur no sooner than 180 days from the date of publication in the **Federal Register**.

ADDRESSES: Lisa Helmig, Acting Forest Supervisor, Shawnee National Forest, 50 Highway 145N, Harrisburg, Illinois 62946.

FOR FURTHER INFORMATION CONTACT: Laura Lecher, Shawnee National Forest Recreation Staff Officer, 618–253–7114. Information about proposed fee changes can also be found on the Shawnee National Forest website: *https://www.fs.usda.gov/shawnee.*

SUPPLEMENTARY INFORMATION:

Garden of the Gods Recreation Area (Saline County, IL) already includes a fee campground (Pharaoh Campground). This proposal will not affect the campground fee but will institute a $5 per vehicle fee for the day use area associated with the quarter mile paved ''Observation Trail'' that leads visitors through unique rock formations and along the tops of the bluffs overlooking the Shawnee Hills and Garden of the Gods Wilderness Area.

Pounds Hollow Recreation Area (Gallatin County, IL) includes the only non-concession-operated swim beach on the forest. Pine Ridge Campground is an existing fee site within the recreation area. This proposal is to institute a $5 per vehicle fee for the swimming beach and picnic shelter on Pounds Hollow Lake.

Johnson Creek Recreation Area (Jackson County, IL) includes an existing fee campground (Johnson Creek Campground). This proposal will not affect the campground fee but would institute a $5 per vehicle day-use fee for the boat launch on Kinkaid Lake.

Pomona Boat Launch (Jackson County, IL) is a jointly managed boat launch on Cedar Lake. Pomona Township maintains the parking area and mowed grounds, while the Forest Service manages the launch, toilets, and picnic facilities. This proposal would institute a $5 per vehicle day-use fee for the boat launch area.

Little Grand Canyon (Jackson County, IL) is a trailhead providing access to a National Natural Landmark area. This proposal would institute a $5 per vehicle day-use fee for the trailhead facilities.

Bell Smith Springs Interpretive Site (Pope County, IL) provides access to a National Natural Landmark area. This proposal would institute a $5 per vehicle day-use fee for the interpretive site facilities.

A Shawnee National Forest annual pass will also be created which will grant the holder year-round use of the recreation facilities at these day-use-fee sites. The cost for the annual pass is proposed to be $30, final cost will be determined through this public comment process and further analysis.

The Federal Recreation Lands Enhancement Act (Title VIII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established. Once public involvement is complete, these new fees will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation.

Revenue generated by the proposed fees would be used to leverage federal funding, grants, and partnership contributions to fund maintenance and upgrades to features and facilities such as toilets, docks and ramps, picnic tables and grills, parking lots and access roads, interpretive and informational signing, and to restore natural resources damaged by visitor use.

Dated: October 29, 2019.

Richard A. Cooksey,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2019–25433 Filed 11–22–19; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Availability of the Final Supplemental Environmental Impact Statement for the Little Otter Creek Watershed Plan, Caldwell County, Missouri

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture (USDA).

ACTION: Notice of availability for the Final Supplemental Environmental Impact Statement (FSEIS).

SUMMARY: NRCS announces the availability of the FSEIS for the Little Otter Creek Watershed Plan (LOCWP), Caldwell County, Missouri, involving the proposed construction of a multi-purpose reservoir. The purpose of this supplement is to address changes which have occurred since NRCS prepared the LOCWP and Environmental Impact Statement in 2003. The FSEIS updates the original EIS with more recent relevant environmental information and expands the alternatives analysis beyond those previously considered. The FSEIS evaluates reasonable and practicable alternatives and their expected environmental impacts under the Environmental Impact Statement (EIS) provisions of the Council on Environmental Quality.

DATES: We will consider comments that we receive by December 26, 2019.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include the volume, date, and page number of this issue of the **Federal Register**. Comments may be submitted by the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov/* and search for Docket ID NRCS–2019–0019. Follow the instructions for submitting comments.

NRCS will post all comments on *http://www.regulations.gov.* Copies of the FSEIS are available at: *http://tiny.cc/1fd33y.*

FOR FURTHER INFORMATION CONTACT: Chris Hamilton, Assistant State Conservationist, Water Resources and Easements, at *chris.hamilton@usda.gov* or (573) 876–0912. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

The NRCS in cooperation with the Caldwell County Commission, Caldwell County Soil and Water Conservation District, and the U.S. Army Corps of Engineers (USACE) has prepared a FSEIS for the LOCWP in Caldwell County, Missouri authorized pursuant to the Watershed Protection and Flood Prevention Act, Public Law 83–566, (16 U.S.C. 1001–1008). The NRCS determined that additional analysis was required and that the purposes of the National Environmental Policy Act (NEPA) would be furthered through the preparation of a FSEIS. The USACE is a cooperating federal agency in the preparation of the FSEIS. The FSEIS has considered all reasonable and practicable alternatives to meet the purpose and need for the Federal action. The FSEIS has assessed the potential social, economic, and environmental impacts of the project, and addressed Federal, State, and local regulatory requirements along with pertinent environmental and socio-economic issues. The FSEIS analyzed the direct, indirect, and cumulative effects of the proposed action.

A Notice of Intent to prepare a Supplemental Environmental Impact Statement for the LOCWP was published in the **Federal Register** on December 23, 2013. A Notice of Availability of the Draft Supplemental Environmental Impact Statement (DSEIS) for the LOCWP was published in the **Federal Register** on March 29, 2019. A public open house was held from 3:00 p.m. to 8:00 p.m. on Thursday, May 2, 2019, at Kingston, Missouri to answer questions and solicit comments on the DSEIS document. The 45-day public comment period ended on May 13, 2019. NRCS has responded to all substantive comments received. Copies of comments received and NRCS responses to those comments appear in Appendix C of the FSEIS.

The 6,323-acre Little Otter Creek Watershed is located two miles east of Hamilton in Caldwell County in northwest Missouri. It is a tributary to Otter Creek which drains to Shoal Creek; the Grand River, and the Missouri River.

Engineering reports dating back nearly 50 years document water supply problems in Caldwell County. Underlying geologic formations severely limit groundwater quality and availability. The Missouri Drought Plan places Caldwell County in a region classified as having ''severe surface and groundwater supply drought vulnerability.'' Digital models estimate that existing water sources could supply only 37 percent of the county's demand during the drought of record. In addition, the LOCWP documented annual flood damages to crop and pasture land, fences, roads and bridges. The LOCWP also identified the need for additional recreational opportunities in the surrounding area.

At the request of the Caldwell County Commission and the Caldwell County Soil and Water Conservation District, the NRCS began watershed planning activities in July 2000 under the authority of the Watershed Protection and Flood Prevention Act of 1954, Public Law 83–566, as amended (16 U.S.C. 1001–1008). NRCS issued a Notice of Intent to prepare an Environmental Impact Statement in July of 2002. On August 6, 2002, the voters of Caldwell County approved a one-half percent sales tax to assist in funding the local match for project installation. NRCS completed the LOCWP and Environmental Impact Statement in March 2003 and announced a Record of Decision to proceed with installation in May 2003. The project has not been installed because sufficient funding has not been available. Installation of the proposed action will result in temporary and permanent impacts to jurisdictional waters of the United States requiring a Clean Water Act (CWA) Section 404 permit. The USACE has not issued a Section 404 permit for this project. Comments received during the EIS process suggested that a larger number of reasonable and practicable alternatives be considered. Potential impacts of all reasonable and practicable alternatives have been updated and analyzed in the SEIS in compliance with Section 404(b)(1) of the CWA. The USACE and the U.S. Environmental Protection Agency (EPA) completed an Approved Jurisdictional Determination in March 2010.

Proposed Action

The proposed Federal action as presented in the 2003 EIS includes one approximately 362-acre multiple-purpose reservoir on Little Otter Creek, a water intake structure, a raw water line, fish and wildlife habitat enhancement, and recreational facilities. The purpose of the proposed Federal action is to:

- Provide approximately 1.24 million gallons per day of locally-controlled raw water supply to meet the projected 50-year usage demand for Caldwell County;
- Provide approximately 60,000 annual recreational user-days; and
- Provide an approximate 96 percent reduction in annual flood damages in the 3.8 miles of Little Otter Creek between the reservoir and the confluence with Otter Creek.

Alternatives

The SEIS evaluated environmental impacts of the following alternatives and other action alternatives identified that were reasonable and practicable:

(1) Creation of a multi-purpose reservoir;

(2) A combination of independent purpose alternatives to meet the overall project purposes and needs; and

(3) The no-action alternative.

The SEIS identified the National Economic Development alternative, which is the alternative with the greatest net economic benefit consistent with protecting the Nation's environment and documents the estimated direct, indirect and cumulative impacts of the proposed action and alternatives on the environment.

Scoping

In developing the LOCWP, numerous scoping meetings were held to gather public input and keep the community informed on the status of project planning activities. Several community surveys and interviews were conducted to gather information, and periodic news articles were published to update local citizens. The Caldwell County Lake Project Steering Committee was formed to further insure public input into the planning process. A public open house was held from 3:00 p.m. to 8:00 p.m. on Thursday, May 2, 2019, at Kingston, Missouri, to answer questions and solicit comments on the DSEIS document. NEPA procedures do not require additional public scoping meetings for the development of a SEIS and none are planned at this time. Comments received were used to revise the Draft and Final SEIS.

Public Involvement

The NRCS invites full public participation to promote open communication and better decision-making. All persons and organizations with an interest in the LOCWP are urged

to comment. Public comments are welcome, and comments may be submitted to the NRCS for 30 days after publication of the Final SEIS. Distribution of the comments received will be included in the Administrative Record without change and may include any personal information provided, unless the commenter indicates that the comment includes information claimed to be confidential business information.

Other Environmental Review and Coordination Requirements

The USACE is a cooperating agency in the preparation of the FSEIS. The NRCS as the lead Federal agency will continue to coordinate with other agencies and entities throughout the NEPA process including: Caldwell County Commission, Missouri Department of Natural Resources, Missouri Department of Conservation, U.S. Fish and Wildlife Service, and EPA. The FSEIS addresses project compliance with applicable laws and regulations, including NEPA, CWA, Endangered Species Act, and the National Historic Preservation Act.

Permits or Licenses Required

The proposed Federal action requires a CWA Section 404 permit from the USACE. The project also requires certification by the State of Missouri, Department of Natural Resources, under Section 401 of the CWA, that the project would not violate State water quality standards. A land disturbance permit issued by the Missouri Department of Natural Resources under Section 402 of the CWA (National Pollutant Discharge Elimination System Permit) is required. Construction and Safety Permits issued by the Missouri Dam and Reservoir Safety Program are also required.

Serapio Flores,

Missouri State Conservationist, Natural Resources Conservation Service.

[FR Doc. 2019–25557 Filed 11–22–19; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

SUPPLEMENTARY INFORMATION:

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[11/5/2019 through 11/18/2019]

Firm name	Firm address	Date accepted for investigation	Product(s)
Maximum Promotions, Inc	705 North West Avenue, Sioux Falls, SD 57104.	11/6/2019	The firm manufactures flags and banners.
Richard E. Bishop, Ltd	500 East Washington Street, Suite 425, Norristown, PA 19401.	11/12/2019	The firm manufactures glassware.
Advanced Superabrasives, Inc., d/b/a Advanced Tool, Inc.	1270 North Main Street, Mars Hill, NC 28754.	11/15/2019	The firm manufactures abrasive grinding wheels.
Othernet, Inc	965 West Chicago Avenue, Chicago, IL 60642.	11/18/2019	The firm manufactures satellite data receivers.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Irette Patterson,

Program Analyst.

[FR Doc. 2019–25416 Filed 11–22–19; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

First Responder Network Authority

First Responder Network Authority Combined Committee and Board Meeting

AGENCY: National Telecommunications and Information Administration, First Responder Network Authority (FirstNet Authority), U.S. Department of Commerce.

ACTION: Notice of Public Meeting of the FirstNet Authority Board.

SUMMARY: The Board of the FirstNet Authority (Board) will convene an open public meeting of the Board and the Board Committees on December 5, 2019.

DATES: A joint meeting of the four FirstNet Authority Board Committees and the FirstNet Authority Board will be held on December 5, 2019, between 11:00 a.m. and 1:00 p.m. (EST). The meeting of the FirstNet Authority Board and the Governance and Personnel, Technology, Public Safety Advocacy, and Finance Committees will be open to the public from 11:00 a.m. to 1:00 p.m. (EST).

ADDRESSES: The meeting on December 5, 2019, will be held at the Diplomat Beach Resort, 3555 S Ocean Drive, Hollywood, FL 33019. Members of the public may listen to the meeting by dialing toll free 1–888–324–4147 and entering participant code 4341665#. The meeting will also be webcast. Please refer to the FirstNet Authority's website at *www.firstnet.gov* for webcast instructions and other information.

FOR FURTHER INFORMATION CONTACT: Jennifer Watts, Acting Board Secretary, FirstNet Authority, 12201 Sunrise Valley Drive, M/S 243, Reston, VA 20192; telephone: (571) 665–6178; email: *Jennifer.Watts@firstnet.gov*. Please direct media inquiries to Ryan Oremland at (571) 665–6186.

SUPPLEMENTARY INFORMATION: This notice informs the public that the FirstNet Authority Board and the Board Committees will convene an open public meeting on December 5, 2019.

Background: The Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96, Title VI, 126 Stat. 256 (codified at 47 U.S.C. 1401 *et seq.*)) (Act) established the FirstNet Authority as an independent authority within the National Telecommunications and Information Administration that is headed by a Board. The Act directs the FirstNet Authority to ensure the building, deployment, and operation of a nationwide, interoperable public safety broadband network. The FirstNet Authority Board is responsible for making strategic decisions regarding the FirstNet Authority's operations. The FirstNet Authority Board held its first public meeting on September 25, 2012.

Matters to be Considered: The FirstNet Authority will post a detailed agenda for the Combined Board Committees and Board Meeting on its website, *www.firstnet.gov,* prior to the meetings. The agenda topics are subject to change. Please note that the subjects that will be discussed by the Committees and the Board may involve commercial or financial information that is privileged or confidential or other legal matters affecting the FirstNet Authority. As such, the Committee Chairs and Board Chair may call for a vote to close the meetings only for the time necessary to preserve the confidentiality of such information, pursuant to 47 U.S.C. 1424(e)(2).

Times and Dates of Meeting: A combined meeting of the FirstNet Authority Board and FirstNet Authority Board Committees will be held on December 5, 2019 between 11:00 a.m. and 1:00 p.m. (EST). The meeting of the FirstNet Authority Board and the Governance and Personnel, Technology, Public Safety Advocacy, and Finance Committees will be open to the public from 11:00 a.m. to 1:00 p.m. (EST). The times listed above are subject to change. Please refer to the FirstNet Authority's website at *www.firstnet.gov* for the most up-to-date information.

Place: The meetings on December 5, 2019 will be held at the Diplomat Beach Resort, 3555 S Ocean Drive, Hollywood, FL 33019. Members of the public may listen to the meeting by dialing toll free 1–888–324–4147 and entering participant code 4341665#. The meeting will also be webcast. Please refer to the FirstNet Authority's website at *www.firstnet.gov* for webcast instructions and other information.

Other Information: These meetings are open to the public and press on a first-come, first-served basis. Space is limited. To ensure an accurate headcount, all expected attendees are asked to provide notice of intent to attend by sending an email to *BoardRSVP@firstnet.gov*. If the number of RSVPs indicates that expected attendance has reached its capacity, the FirstNet Authority will respond to all subsequent notices indicating that capacity has been reached and that in-person viewing may no longer be available but that the meeting may still be viewed by webcast as detailed below. For access to the meetings, valid government issued photo identification may be requested for security reasons.

The Combined Committee and Board Meetings are accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Mrs. Watts by telephone at (571) 665–6178 or email at *Jennifer.Watts@firstnet.gov* at least five (5) business days before the applicable meeting.

The meeting will also be webcast. Please refer to the FirstNet Authority's website at *www.firstnet.gov* for webcast instructions and other information. Viewers experiencing any issues with the live webcast may email *support@sparkstreetdigital.com* or call (202) 684–3361 x3 for support. A variety of automated troubleshooting tests are also available via the ''Troubleshooting Tips'' button on the webcast player. The meetings will also be available to interested parties by phone. To be connected to the meetings in listen-only mode by telephone, please dial toll free 1–888–324–4147 and entering participant code 4341665#. If you experience technical difficulty, please contact the Conferencing Center customer service at 1–866–900–1011.

Records: The FirstNet Authority maintains records of all Board proceedings. Minutes of the Board Meeting and the Committee meetings will be available at *www.firstnet.gov*.

Dated: November 17, 2019.

Jennifer Watts,

Acting Board Secretary, FirstNet Authority.

[FR Doc. 2019–25483 Filed 11–22–19; 8:45 am]

BILLING CODE 3510–TL–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–235–2019]

Foreign-Trade Zone 7—Mayaguez, Puerto Rico; Application for Expansion of Subzone 7F; Puma Energy Caribe, LLC, Guaynabo, Puerto Rico

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Puerto Rico Industrial Development Company, grantee of FTZ 7, requesting an expansion of Subzone 7F on behalf of Puma Energy Caribe, LLC. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on November 19, 2019.

Subzone 7F was approved on May 15, 2001 (Board Order 1165, 66 FR 28890–28891, May 25, 2001) and consists of one site (173.81 acres) located at State Road 28, Km 2, Bayamón. The applicant is requesting authority to expand the subzone to include an additional site: *Proposed Site 2* (45.18 acres)—Road 28, Km .08, Guaynabo. The existing subzone and the proposed site would be subject to the existing activation limit of FTZ 7. No additional authorization for production activity has been requested at this time.

In accordance with the Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is January 6, 2020. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to January 21, 2020.

A copy of the application will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: November 19, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–25511 Filed 11–22–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet December 10, 2019, 9:00 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues NW, Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

Public Session

1. Opening remarks by the Chairman
2. Opening remarks by the Bureau of Industry and Security
3. Presentation of papers or comments by the Public
4. Export Enforcement Update
5. Regulations Update
6. Working Group Reports
7. Automated Export System Update

Closed Session

8. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3)

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than December 3, 2019.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on May 21, 2019, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and the U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 § § 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2019–25550 Filed 11–22–19; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–985]

Xanthan Gum From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017–2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that the companies under review did not make sales of subject merchandise below normal value during the period of review (POR) July 1, 2017 through June 30, 2018.

DATES: Applicable November 25, 2019.

FOR FURTHER INFORMATION CONTACT: Aleksandras Nakutis or Thomas Hanna, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3147 and (202) 482–0835, respectively.

SUPPLEMENTARY INFORMATION:

Background

After Commerce published the *Preliminary Results* on June 10, 2019,[1] interested parties commented on those results. For details regarding the events that occurred subsequent to the *Preliminary Results, see* the Issues and Decision Memorandum.[2] Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The product covered by this order is dry xanthan gum, whether or not coated or blended with other products, from China. For a complete description of the scope of this order, see the Issues and Decision Memorandum.

Analysis of Comments Received

We addressed all issues raised in the case and rebuttal briefs submitted by interested parties in the Issues and Decision Memorandum, which is hereby adopted by this notice. The Appendix to this notice provides a list of sections in the Issues and Decision Memorandum as well as a list of the issues which parties raised. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and it is available to all parties in the Central Records Unit of the main Commerce building, room B8024. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic version are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding the *Preliminary Results,* we have corrected a ministerial error that occurred in determining the surrogate value for Deosen's cornstarch.[3] We have made no other changes to the *Preliminary Results.*

Separate Rates

In the *Preliminary Results,* we found that Meihua Group International Trading (Hong Kong) Limited, Langfang Meihua Biotechnology Co., Ltd., and Xinjiang Meihua Amino Acid Co., Ltd.

[1] *See Xanthan Gum from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review, and Preliminary Determination of No Shipments; 2017–2018,* 84 FR 26813 (June 10, 2019) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum ''Issue and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review: Xanthan Gum from the People's Republic of China; 2017–2018,'' (Issues and Decision Memorandum), dated concurrently with this notice.

[3] *See* Issues and Decision Memorandum at Comment 5.

(collectively, Meihua), Deosen Biochemical (Ordos) Ltd./Deosen Biochemical Ltd. (collectively, Deosen) and CP Kelco (Shandong) Biological Company Limited (CP Kelco (Shandong) demonstrated their eligibility for separate-rate status, but that Hebei Xinhe Biochemical Co., Ltd. and A.H.A. International Co., Ltd. did not demonstrate their eligibility for separate-rate status because both failed to file a separate rate application or a separate rate certification.[4] Thus, Commerce treated Hebei Xinhe Biochemical Co., Ltd. and A.H.A. International Co., Ltd. as part of the China-wide entity. No parties commented on these determinations. For the final results of review, we continue to grant Meihua, Deosen, and CP Kelco (Shandong) separate-rate status and deny Hebei Xinhe Biochemical Co., Ltd. and A.H.A. International Co., Ltd. separate-rate status.

Final Determination of No Shipments

In the *Preliminary Results,* we found that Jianlong Biotechnology Co., Ltd. (Jianlong) (previously known as Inner Mongolia Jianlong Biochemical Co., Ltd. (IMJ)) and Shanghai Smart Chemicals Co., Ltd. (Shanghai Smart) had no shipments of subject merchandise to the United States during the POR and, therefore, no reviewable transactions during the POR.[5] No parties commented on these determinations. For the final results of review, we continue to find that these companies had no shipments during the POR.

Dumping Margin for Non-Individually Examined Respondents Granted Separate Rate Status

The statute and Commerce's regulations do not address the rate to apply to respondents not selected for individual examination in an NME administrative review who are eligible for a separate rate when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for non-selected respondents that are not examined individually in an NME administrative review but are eligible for a separate rate. Section 735(c)(5)(A) of the Act provides that the all-others rate should be calculated by averaging the weighted-average dumping margins for individually-examined respondents, excluding rates that are zero, *de minimis,* or based entirely on facts available. When the rates for individually examined companies are all zero, *de minimis,* or based entirely on facts available, section 735(c)(5)(B) of the Act provides that Commerce may use ''any reasonable method'' to establish the all others rate. After making the change described above, both mandatory respondents, Meihua and Deosen, have a calculated weighted-average dumping margin of zero percent. As such, we assigned a dumping margin equal to zero percent to the separate rate recipients not selected for examination.

Final Results of Administrative Review

We determine that the following weighted-average dumping margin exists for the POR:

Exporter	Weighted-average dumping margins (percentage)
Deosen Biochemical Ltd./Deosen Biochemical (Ordos) Ltd	0.00
Meihua Group International Trading (Hong Kong) Limited/Langfang Meihua Biotechnology Co., Ltd./Xinjiang Meihua Amino Acid Co., Ltd	0.00
CP Kelco (Shandong) Biological Company Limited	0.00

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. Because Meihua, Deosen, and CP Kelco (Shandong)'s weighted-average dumping margin is zero percent, we intend to instruct CBP to liquidate appropriate entries from these companies without regard to antidumping duties.[6]

For entries that were not reported in the U.S. sales database submitted by an exporter individually examined during this review, but that entered under the case number of that exporter (*i.e.,* at the individually-examined exporter's cash deposit rate), we will instruct CBP to liquidate such entries at the China-wide rate (*i.e.,* 154.07 percent). Additionally, where we determined that an exporter under review had no shipments of the subject merchandise to the United States during the POR, any suspended entries that entered during the POR under that exporter's case number will be liquidated at the China-wide rate.

Although Commerce discontinued the instant review with respect to Inner Mongolia Fufeng Biotechnologies Co., Ltd./Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.) (Neimenggu Fufeng)/Shandong Fufeng Fermentation Co., Ltd. (Shandong Fufeng)/Xinjiang Fufeng Biotechnologies Co., Ltd. (Xinjiang Fufeng) (collectively, Fufeng), as a result of litigation before the U.S. Court of International Trade,[7] the suspension of liquidation must continue during the pendency of the appeals process for that litigation. Therefore, we will not issue liquidation instructions for POR entries of subject merchandise produced and exported by Fufeng until the appeals process has concluded.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed in the table above, the cash deposit rate will be the rate that is listed for the exporter in the table above;

[4] *See Preliminary Results,* 84 FR at 26814.

[5] *Id.*

[6] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[7] *See Xanthan Gum from the People's Republic of China: Notice of Court Decision Not in Harmony With Amended Final Determination in Less Than Fair Value Investigation; Notice of Amended Final Determination Pursuant to Court Decision; Notice of Revocation of Antidumping Duty Order in Part; and Discontinuation of Fourth and Fifth Antidumping Duty Administrative Reviews in Part,* 83 FR 52205, 52206 (October 16, 2018).

(2) for previously investigated or reviewed China and non-China exporters not listed in the table above that have a separate rate, the cash deposit rate will continue to be the existing exporter-specific rate published for the most recent period; (3) for all China exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate previously established for the China-wide entity, which is 154.07 percent; and (4) for all non-China exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the China exporter that supplied that non-China exporter. The cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing these final results of administrative review and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: November 18, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of The Issues
Comment 1: Commerce Should Make No Changes to the Calculations Not Raised in the Case Briefs of the Parties to the Review
Comment 2: Commerce Should Not Deduct from the U.S. Price Any Amount for Value-Added Tax
Comment 3: Whether Commerce Should Modify Customs Instructions
Comment 4: Commerce Should Include Reported Energy Factors of Production in its Normal Value Calculation
Comment 5: Commerce Incorrectly Valued Cornstarch
Comment 6: Commerce Should Accept Green Health International's Separate Rate Application
V. Conclusion

[FR Doc. 2019–25536 Filed 11–22–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XR040]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Long Beach Cruise Terminal Improvement Project in the Port of Long Beach, California

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA), as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to Carnival Corporation & PLC (Carnival) to incidentally take, by Level A harassment and Level B harassment, five species of marine mammals during the Port of Long Beach Cruise Terminal Improvement Project in Port of Long Beach, California.

DATES: This Authorization is effective from November 19, 2019 through November 18, 2020.

FOR FURTHER INFORMATION CONTACT: Wendy Piniak, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the authorization, application, and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On February 15, 2019, NMFS received a request from Carnival for an IHA to take marine mammals incidental to the Port of Long Beach Cruise Terminal Improvement Project in Port of Long Beach (POLB), California. The application was deemed adequate and complete on July 12, 2019. Subsequent revisions to the application were submitted by Carnival on September 13, 2019. Carnival's request is for take of five species of marine mammals by Level B harassment and one of these five species by Level A harassment. Neither Carnival nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate. In-water activities (pile installation and dredging) associated with the project are anticipated to require five months.

Description of Activity

Carnival requested authorization for take of marine mammals incidental to in-water activities associated with the Port of Long Beach Cruise Terminal Improvement Project in POLB, California. The purpose of the project is to make improvements to its existing berthing facilities at the Long Beach Cruise Terminal at the Queen Mary located at Pier H in the POLB, in order to accommodate a new, larger class of cruise ships. The project will also resolve safety issues in the existing parking structure and vessel mooring. Implementation of the project requires installation of two high-capacity mooring dolphins, fenders, and a new passenger bridge system, and dredging at the existing berth and the immediate surrounding area. In-water construction will include installation of a maximum of 49 permanent, 36-inch (91.4 centimeters (cm)) steel pipe piles using impact and vibratory pile driving. Sounds produced by these activities may result in take, by Level A harassment and Level B harassment, of marine mammals located in the POLB, California.

In-water activities (pile installation and dredging) associated with the planned project are anticipated to begin mid-November, 2019, and be completed by mid-April, 2020, however Carnival requested the IHA for one year from the date of issuance. Pile driving activities will occur for 26 days and dredging activities will occur for 30 days during the planned project dates. In-water activities will occur during daylight hours only.

A detailed description of the planned activities is provided in the **Federal Register** notice announcing the proposed IHA (84 FR 54867; October 11, 2019). Since that time no changes have been made to Carnival's planned activities. Therefore, a detailed description is not provided here. Please refer to the proposed IHA **Federal Register** notice for a detailed description of the activity.

Comments and Responses

A notice of NMFS' proposal to issue an IHA to Carnival was published in the **Federal Register** on October 11, 2019 (84 FR 54867). That notice described, in detail, Carnival's proposed activity, the marine mammal species that may be affected by the activity, the anticipated effects on marine mammals and their habitat, proposed amount and manner of take, and proposed mitigation, monitoring and reporting measures. During the 30-day public comment period NMFS received a comment letter from the Marine Mammal Commission (Commission); the Commission's recommendations and our responses are provided here, and the comments have been posted online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.*

Comment 1: The Commission states that NMFS' standard 7-decibel (dB) source level reduction when bubble curtains are to be used during pile driving is not appropriate because bubble curtains that are placed immediately around the pile do not achieve consistent reductions in sound levels because they cannot attenuate ground-borne sound. The Commission recommends that NMFS consult with the relevant experts regarding the appropriate source level reduction factor to use to minimize far-field effects on marine mammals for all relevant incidental take authorizations and, until the experts have been consulted, refrain from using a source level reduction factor when bubble curtains are to be implemented.

Response: While it is true that noise level reduction measured at different received ranges does vary, given that both Level A harassment and Level B harassment estimation using geometric modeling is based on noise levels measured at near-source distances (~10 meters (m)), NMFS believes it reasonable to use a source level reduction factor for sound attenuation device (bubble curtain) implementation during impact pile driving. As noted in responses to previous comments on the source level reduction factor for sound attenuation device, NMFS reviewed Caltrans' bubble curtain ''on and off'' studies conducted in San Francisco Bay in 2003 and 2004. The equipment used for bubble curtains has likely improved since 2004 but due to concerns for fish species, Caltrans has not able to conduct ''on and off'' tests recently. Based on 74 measurements (37 with the bubble curtain on and 37 with the bubble curtain off) at both near (less than 100 m) and far (greater than 100 m) distances, the linear averaged received level reduction is 6 dB. If limiting the data points (a total of 28 measurements, with 14 during bubble curtain on and 14 during bubble curtain off) to only near distance measurements, the linear averaged noise level reduction is 7 dB. Based on this analysis, we conclude that there is not a significant difference of source level reduction between near and far-distance measurements. Based on these measures and analysis, NMFS has conservatively used the reduction of 7 dB of the source level for impact zone estimates. In the case of Carnival's impact and vibratory pile driving isopleth estimates using an air bubble curtain for source level reduction, NMFS also reviewed Austin *et al.* (2016), which provided measurements of impact and vibratory pile driving using a variety of hammer types on a variety of piles in different locations near Anchorage, Alaska. We specifically examined the measurements in Tables 8 and 9 for SPL rms and SELs-s data for impact pile driving and Table 11 for SPL rms data for vibratory pile driving. At ~10 m Austin *et al.* (2016) measured reductions in mean SELs-s (impact pile driving) and SPL rms (vibratory pile driving) of 10 dB (or higher) when comparing two piles with a hydraulic hammer (pile IP10 with bubble curtain and IP1 unattenuated). At distances farther away from a pile (*e.g.,* 1 km), a variety of factors can influence the measured SPL (including transmission loss, benthic type, pile location, *etc.*). Austin *et al.* (2016) did not present measurements at multiple distances for the same pile with and without bubble curtains making it difficult to interpret or compare measurements at farther distances. NMFS will evaluate the appropriateness of using an alternative source level reduction factor for sound attenuation device implementation during pile driving for all relevant incidental take authorizations as more data become available and contact experts as appropriate. Nevertheless, at this point, we think that a 7 dB reduction is reasonable to be used as a source level reduction factor in this scenario.

Comment 2: The Commission notes that to estimate the 5 Level A harassment takes for harbor seals, NMFS used the density estimate derived from sightings data (MBC Applied Environmental Sciences 2016), the Level A harassment ensonified area, and the number of days of activities. To minimize unnecessary delays if the authorized numbers of Level A harassment takes are met, the Commission recommends that NMFS increase the Level A harassment takes from 5 to at least 26 based on one harbor seal occurring within the 120-m Level A harassment zone on each of the days when impact pile driving will occur.

Response: Following the method for calculating Level B harassment takes for all species, to calculate Level A harassment takes for harbor seals we used the following equation: *Level A harassment zone area * density * # of pile driving days.* For the entire Level A harassment zone, the calculations are as follows:

• For impact pile driving: 0.114852 (Level A zone area) * 1.38 (density) * 26 days = 4.12 seals;

• For vibratory pile driving: * 0.003154 (Level A zone area) * 1.38 (density) * 26 days = 0.11 seals.

For the entire Level A harassment zone, the total is 4.23 seals, rounded to the estimated 5 takes by Level A harassment for harbor seals.

This level of take is estimated to occur if no mitigation measures are implemented. Required mitigation measures include shutdown zones that will likely reduce/eliminate Level A harassment take in the entire vibratory pile driving Level A harassment zone, and a portion of the impact pile driving Level A harassment zone (required shutdown zone of 50 m). As the closest known regularly used haul out site for pinnipeds is approximately 3 km from the project site, we have no information to indicate that there will be more animals than predicted by the density estimates near the project site. We consulted with the applicants and NMFS' West Coast Regional Office in Long Beach, CA. The applicants conducted limited on-site surveys during winter 2018–19 and observed no harbor seals near the project site. NMFS staff with local expertise (and stranding coordinators) were not aware of harbor seals frequenting the POLB, and believed that the MBC Applied Environmental Sciences (2016) survey densities were adequate, and that an increase in the estimated Level A harassment takes was not needed (Laura McCue, personal communication). The MBC Applied Environmental Sciences (2016) survey report also notes that harbor seals were ''most commonly observed resting or foraging along riprap shorelines, particularly the breakwaters of the Outer Harbor, and 83 percent of total observations of this species were made in the Outer Harbor (Figure 10–1).'' Based on the information we have on density and haul out sites, and that we have conservatively estimated the level of take assuming no mitigation, we believe that 5 takes by Level A harassment for harbor seals is appropriate.

Comment 3: The Commission states that it is unclear whether Carnival would keep a running tally of the extrapolated takes to ensure the authorized takes are not exceeded. The Commission notes that they do not believe that keeping track of only the observed takes is sufficient when the Level B harassment zones extend to more than 8 km and recommends adjusting the takes based on the extent of the Level B harassment zone based on the sighting distance and number of PSOs monitoring at a given time. The Commission recommends that NMFS ensure that Carnival keeps a running tally of the total takes for each species to comply with section 3(i) of the draft authorization (''If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized takes are met, is observed entering or within the monitoring zone (Table 2), pile driving activities must shut down immediately using delay and shutdown procedures. Activities must not resume until the animal has been confirmed to have left the area or the 15 minute observation time period has elapsed.'').

Response: We agree that Carnival must ensure they do not exceed authorized takes. We have included in the authorization that Carnival must include extrapolation of the estimated takes by Level B harassment based on the number of observed exposures within the Level B harassment zone and the percentage of the Level B harassment zone that was not visible in the draft and final reports.

Comment 4: The Commission recommended that NMFS refrain from using the proposed renewal process for Carnival's authorization. If NMFS elects to use the renewal process frequently or for authorizations that require a more complex review or for which much new information has been generated, the Commission recommended that NMFS provide the Commission and other reviewers the full 30-day comment period as set forth in section 101(a)(5)(D)(iii) of the MMPA.

Response: We appreciate the Commission's input and direct the reader to our recent response to a similar comment, which can be found at 84 FR 52464 (October 2, 2019; 84 FR 52466).

Description of Marine Mammals in the Area of Specified Activities

A detailed description of the species likely to be affected by Carnival's project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (84 FR 54867; October 11, 2019). Since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to the proposed IHA **Federal Register** notice for these descriptions; we provide a summary of marine mammals that may potentially be present in the project area here (Table 1). Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SAR; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*https://www.fisheries.noaa.gov/find-species*).

Table 1 lists all species with expected potential for occurrence in the POLB and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2018). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Pacific SARs (*e.g.,* Carretta *et al.,* 2019). All values presented in Table 1 are the most recent available at the time of publication and are available in the 2018 Final SARs (Carretta *et al.,* 2019) (available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*).

TABLE 1—MARINE MAMMALS POTENTIALLY PRESENT WITHIN PORT OF LONG BEACH, CALIFORNIA DURING THE SPECIFIED ACTIVITY

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Eschrichtiidae:						
Gray whale	*Eschrichtius robustus*	Eastern North Pacific	-, -, N	26,960 (0.05, 25,849, 2016).	801	139
Family Balaenopteridae (rorquals):						
Blue whale	*Balaenoptera musculus*	Eastern North Pacific	E, D, Y	1,647 (0.07, 1,551, 2011)	2.3	≥19
Fin whale	*Balaenoptera physalus*	California/Oregon/Washington	E, D, Y	9,029 (0.12, 8,127, 2014)	81	≥43.5
Humpback whale	*Megaptera novaeangliae*	California/Oregon/Washington	-, -, Y	2,900 (0.05, 2,784, 2014)	16.7	≥40.2
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Short-beaked common dolphin.	*Delphinus delphis*	California/Oregon/Washington	-, -, N	969,861 (0.17, 839,325, 2014).	8,393	≥40
Long-beaked common dolphin.	*Delphinus capensis* [4]	California	-, -, N	101,305 (0.49, 68,432, 2014).	657	≥35.4
Common bottlenose dolphin	*Tursiops truncates*	Coastal California	-, -, N	453 (0.06, 346, 2011)	2.7	≥2.0
Risso's dolphin	*Grampus griseus*	California/Oregon/Washington	-, -, N	6,336 (0.32, 4,817, 2014)	46	≥3.7
Pacific white-sided dolphin	*Lagenorhynchus obliquidens*	California/Oregon/Washington	-, -, N	26,814 (0.28, 21,195, 2014).	191	7.5
Northern right whale dolphin	*Lissodelphis borealis*	California/Oregon/Washington	-, -, N	26,556 (0.44, 18,608, 2014).	179	3.8
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions):						
California sea lion	*Zalophus californianus*	U.S	-, -, N	257,606 (N/A, 233,515, 2014).	14,011	>320
Family Phocidae (earless seals):						
Harbor seal	*Phoca vitulina*	California	-, -, N	30,968 (0.157, 27,348, 2012).	1,641	43

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.* CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable. California sea lion population size was estimated from a 1975–2014 time series of pup counts (Lowry *et al.* 2017), combined with mark-recapture estimates of survival rates (DeLong *et al.* 2017, Laake *et al.* 2018).

[3] These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

[4] The NMFS SARs identify *Delphinus capensis* as the scientific name for the long-beaked common dolphin, however the Committee on Taxonomy (2018) provisionally considers the Eastern North Pacific form of the long-beaked common dolphin as a subspecies, *Delphinus delphis bairdii,* following the usage of Hershkovitz (1966).

Note:—Italicized species are not expected to be taken or authorized.

Habitat

No ESA-designated critical habitat overlaps with the project area. A migration Biologically Important Area (BIA) for gray whales overlaps with the project area, however as described in the **Federal Register** notice for the proposed IHA (84 FR 54867; October 11, 2019) gray whales are rarely observed in the POLB and sound from the planned project's in-water activities is not anticipated to propagate large distances outside the POLB.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

Underwater noise from impact and vibratory pile driving and down-the-hole drilling activities associated with the planned Port of Long Beach Cruise Terminal Improvement Project have the potential to result in harassment of marine mammals in the vicinity of the action area. The **Federal Register** notice for the proposed IHA (84 FR 54867; October 11, 2019) included a discussion of the potential effects of such disturbances on marine mammals and their habitat, therefore that information is not repeated in detail here; please refer to the **Federal Register** notice (84 FR 54867; October 11, 2019) for that information.

Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which informs both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes will primarily be by Level B harassment, as use of the acoustic sources (*i.e.,* pile driving) has the potential to result in disruption of behavioral patterns for individual

marine mammals. There is also some potential for auditory injury (Level A harassment) to result, for phocids (harbor seals) because predicted auditory injury zones are larger than for mid-frequency species and otariids. Auditory injury is unlikely to occur for mid-frequency cetaceans and otariids. The planned mitigation and monitoring measures (see *Mitigation* and *Monitoring and Reporting* sections below) are expected to minimize the severity of such taking to the extent practicable. With implementation of the planned mitigation and monitoring measures (see *Mitigation* section), no Level B harassment or Level A harassment is anticipated or authorized for low-frequency cetaceans (humpback whales and gray whales). As described previously, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007; Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous (*e.g.,* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources. Carnival's planned activity includes the use of continuous (vibratory pile driving) and impulsive (impact pile driving) sources, and therefore the 120 and 160 dB re 1 μPa (rms) thresholds are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). Carnival's planned activity includes the use includes the use of continuous (vibratory pile driving) and impulsive (impact pile driving) sources.

These thresholds are provided in Table 2 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 2—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	$L_{p,0\text{-pk,flat}}$: 219 dB; $L_{E,p,LF,24h}$: 183 dB	$L_{E,p,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	$L_{p,0\text{-pk,flat}}$: 230 dB; $L_{E,p,MF,24h}$: 185 dB	$L_{E,p,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	$L_{p,0\text{-pk,flat}}$: 202 dB; $L_{E,p,HF,24h}$: 155 dB	$L_{E,p,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	$L_{p,0\text{-pk.flat}}$: 218 dB; $L_{E,p,PW,24h}$: 185 dB	$L_{E,p,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	$L_{p,0\text{-pk,flat}}$: 232 dB; $L_{E,p,OW,24h}$: 203 dB	$L_{E,p,OW,24h}$: 219 dB.

* Dual metric thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds are recommended for consideration.

Note: Peak sound pressure level ($L_{p,0\text{-pk}}$) has a reference value of 1 μPa, and weighted cumulative sound exposure level ($L_{E,p}$) has a reference value of 1μPa^{2}s. In this table, thresholds are abbreviated to be more reflective of International Organization for Standardization standards (ISO 2017). The subscript "flat" is being included to indicate peak sound pressure are flat weighted or unweighted within the generalized hearing range of marine mammals (*i.e.,* 7 Hz to 160 kHz). The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The weighted cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the planned project. Pile driving generates underwater noise that can potentially result in disturbance to marine mammals in the project area. The maximum (underwater) area ensonified

is determined by the topography of the POLB including hard structure breakwaters which bound the southern portion of the POLB and preclude sound from transmitting beyond the outer harbor of the POLB (see Figure 5 of the application). Additionally, vessel traffic and other commercial and industrial activities in the project area may contribute to elevated background noise levels which may mask sounds produced by the project.

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B * Log_{10} (R_1/R_2),$$

Where:

TL = transmission loss in dB

B = transmission loss coefficient; for practical spreading equals 15

R_1 = the distance of the modeled SPL from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20*log[range]). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10*log[range]). A practical spreading value of fifteen is often used under conditions, such as the project site at Pier H in the POLB where water increases with depth as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. Practical spreading loss is assumed here.

The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. In order to calculate distances to the Level A harassment and Level B harassment thresholds for the 36 inch steel piles planned in this project, NMFS used acoustic monitoring data from other locations. In their application, Carnival presented several reference sound levels based on underwater sound measurements documented for other pile driving projects of the west coast of the U.S. (see Tables 1.3 and 1.5 of the application). Empirical data from a recent sound source verification (SSV) study conducted as part of the Anacortes Ferry Terminal Project, in the state of Washington were used to estimate the sound source levels (SSLs) for impact pile driving and vibratory pile driving. The Anacortes Ferry Terminal Project were generally assumed to best approximate the construction activities and environmental conditions found in the Carnival's planned project in that the Anacortes Ferry Terminal Project also involved driving 36 inch piles into a similar substrate type (sand and silt) with a diesel hammer of similar power (ft-lbs) (WSDOT 2018). Carnival also presented several references for the number of piles installed per day and the number of strikes (impact pile driving) or minutes (vibratory pile driving) required to install each pile from similar projects on the U.S. west coast. As the Anacortes Ferry Terminal Project was assumed to be most similar to Carnival's planned project (and generally had the highest values), number of strikes (impact pile driving) or minutes (vibratory pile driving) required to install each pile from this Anacortes Ferry Terminal Project were used to calculate Level A harassment and Level B harassment isopleths (WSDOT 2018). Based on data from these projects, the applicant anticipates that a maximum of 5 piles could be installed via impact pile driving per day and 5 piles could be installed via vibratory pile driving per day.

Carnival used NMFS' Optional User Spreadsheet, available at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance,* to input project-specific parameters and calculate the isopleths for the Level A harassment and Level B harassment zones for impact and vibratory pile driving. When the NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which may result in some degree of overestimate of Level A harassment take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources pile driving, the NMFS User Spreadsheet predicts the distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would incur PTS.

Table 3 provides the sound source values and input used in the User Spreadsheet to calculate harassment isopleths for each source type. For the impact pile driving source level, Carnival used levels measured at the Anacortes Ferry Terminal Project (peak SPL [SPLpk]: 207 dB re: 1 μPa at 10 m; SPL rms: 189 dB re: 1 uPa at 10 m; and single strike sound exposure level [SELs-s]: 175 dB re: 1 μPa at 10 m at the 90th percentile) as reported in WSDOT (2019, Table 7–14). For the vibratory pile driving source level, Carnival also used levels measured at the Anacortes Ferry Terminal Project (SPL: 170 dB re: 1 μPa (rms) at 11 m) as reported in WSDOT (2019, Table 7–15). Carnival will implement bubble curtains (*e.g.* pneumatic barrier typically comprised of hosing or PVC piping that disrupts underwater noise propagation; see *Mitigation* section below) and has reduced the source levels of both impact and vibratory pile driving by 7 dB (a conservative estimate based on several studies including Austin *et al.,* 2016). For impact pile driving, Level A harassment isopleths were calculated using the cumulative SEL metric (SELs-s) as it produces larger isopleths than SPLpk. Isopleths for Level B harassment associated with impact pile driving (160 dB) and vibratory pile driving (120 dB) were calculated using SPL (rms) values and can be found in Table 4.

TABLE 3—USER SPREADSHEET INPUT PARAMETERS USED FOR CALCULATING HARASSMENT ISOPLETHS

User spreadsheet parameter	Impact pile driving	Vibratory pile driving
Spreadsheet Tab Used	E.(1) Impact pile driving	A. (1) Drilling/Vibratory pile driving.
Source Level (SELs-s or SPL rms)	168 SELs-s [a b]	163 dB SPL rms.[a b]
Source Level (SPLpk)	207	N/A.
Weighting Factor Adjustment (kHz)	2	2.5.
Number of piles	5	5.
Number of strikes per pile	675	N/A.
Number of strikes per day	2,700	N/A.
Estimate driving duration (min) per pile	N/A	31.5.
Activity Duration (h) within 24-h period	N/A	2.625.
Propagation (xLogR)	15 Log R	15 Log R.
Distance of source level measurement (meters)	10	11.
Other factors	Using bubble curtain	Using bubble curtain.

[a] WSDOT (2019).
[b] Austin *et al.* 2016.

TABLE 4—CALCULATED DISTANCES TO LEVEL A HARASSMENT AND LEVEL B HARASSMENT ISOPLETHS DURING PILE DRIVING

Source	Level A harassment zone (meters)					Level B harassment zone (meters)	Level B harassment zone ensonified area (km^2)
	Low-frequency cetacean	Mid-frequency cetacean	High-frequency cetacean	Phocid pinniped	Otariid pinniped	Cetaceans & Pinnipeds	Cetaceans & Pinnipeds
Impact Pile Driving	224.7	8.0	267.6	120.2	8.8	292.7	0.39
Vibratory Pile Driving	19.4	1.7	28.7	11.8	0.8	8,092.1	27.42
Source	PTS Onset Isopleth—Peak (meters)						
Impact Pile Driving	1.6	N/A	21.5	1.8	N/A		

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. Marine mammal densities were obtained from MBC Applied Environmental Sciences (2016) and Jefferson *et al.* (2013). MBC Applied Environmental Sciences (2016) conducted marine mammal and bird visual surveys in the POLB over a 12-month period from September, 2013 to August, 2014. The survey area included a substantial portion of the project action area. MBC Applied Environmental Sciences (2016) conducted point count surveys on one day each month within a number of distinct study units including one encompassing approximately half of the existing Carnival dock. These data are relatively recent, and occurred in the POLB in the habitats and locations potentially impacted by the specified activity, and as such as they are the best available survey data for the project action area for the species they observed. MBC Applied Environmental Sciences (2016) reported raw sightings numbers per month per species. To estimate density from the MBC Applied Environmental Sciences (2016) data, the two-dimensional area of their combined survey area (based on their sampling quadrants) was calculated using GIS and graphics in their report showing the limits of each sampling quadrant. The maximum monthly observed number of observations for each species observed and the total study area (30.35 km^2) was used to calculate density (Table 6). During POLB surveys, MBC Applied Environmental Sciences (2016) observed common dolphins (not identified to species, however to be conservative, this number was used for both species), common bottlenose dolphins, California sea lions, and harbor seals. They did not observe gray or humpback whales and therefore, did not provide density estimates for these species.

The U.S. Department of the Navy (Phase III, 2017) created a Marine Species Density Database (NMSDD) for the Hawaii-Southern California Training and Testing Study Area. To characterize marine species density for large oceanic regions, the Navy reviews, critically assesses, and prioritizes existing density estimates from multiple sources and developed a systematic method for selecting the most appropriate density estimate for each combination of species, area, and season. The resulting compilation and structure of the selected marine species density data resulted in the Navy Marine Species Density Database (NMSDD) (DoN, 2017). The NMSDD uses data from Jefferson *et al.* (2014) to estimate densities for gray and humpback whales in Southern California. Jefferson *et al.* (2014) reported the results of aerial visual marine mammal surveys from 2008–2013 in the Southern California Bight, including areas around the Channel Islands. Although the survey area did not include the POLB, it did include nearshore waters not far to the south of the Port. Density estimates were based on airborne transects and utilized distance sampling methods and these estimates are the best information available on densities for gray and humpback whales in southern California (DoN, 2017) (Table 5). Note, that in the **Federal Register** notice announcing the proposed IHA (84 FR 54867; October 11, 2019) we used density estimates for gray and humpback whales from Jefferson *et al.* (2013). The data presented in Jefferson

et al. (2014) and Jefferson *et al.* (2013) are from the same surveys, and Jefferson *et al.* (2014) presents slight revisions from Jefferson *et al.* (2013). DoN NMSDD (2017) incorporates these revisions and is considered best available information for these species in this region, and we have revised the density estimates presented in Table 5 for gray and humpback whales accordingly.

TABLE 5—MARINE MAMMAL DENSITY INFORMATION

[Species densities used for take calculations are denoted by asterisks*]

Common name	Stock	POLB max monthly number 2013–2014 (MBC Applied Environmental Sciences 2016)	Max density (km^2) (MBC Applied Environmental Sciences 2016) [1]	Max density (km^2) (DoN, 2017)
Gray whale	Eastern North Pacific	0	0	*0.01791
Humpback whale	CA/OR/WA	0	0	*0.00908
Short-beaked common dolphin	CA/OR/WA	[2] 40	*1.32	0.3340
Long-beaked common dolphin	California	[2] 40	*1.32	2.5290
Common bottlenose dolphin	Coastal California	5	*0.17	0.0765
California sea lion	U.S	95	*3.13	0.0627
Harbor seal	California	42	*1.38	0183

[1] Surface area of MBC Applied Environmental Sciences survey region estimated as 30.35 km^2 via GIS. Density as # marine mammals/km^2.
[2] Only identified as "Common Dolphin" and not identified to the species level—to be conservative we used this number for both species.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

Level B Harassment Calculations

The following equation was used to calculate potential take due to Level B harassment per species: *Level B harassment zone area * density * # of pile driving days.* As described above, there will be a maximum of 26 days of pile driving and it is anticipated that a maximum of 5 piles could be installed via impact pile driving per day and 5 piles could be installed via vibratory pile driving per day. We also used the maximum density estimates reported by MBC Applied Environmental Sciences (2016) and DoN (2017) for these species in this region (Table 5). Therefore, the resulting take estimates assume all pile driving conducted when species are in their highest densities in the POLB producing conservative estimates (see Table 6). We present the number of estimated takes due to Level B harassment by impact and vibratory pile driving separately in Table 7, however as these activities are anticipated to occur on the same day (but not at the same time), individuals impacted by impact pile driving are also impacted by vibratory pile driving. As each individual can only be taken once in 24 hours, we conservatively authorize the larger estimate of takes due to vibratory pile driving. Note that while a small number of takes by Level B harassment are estimated using these calculations for gray whales and humpback whales, no takes are authorized as the applicants will implement mitigation measures (shutdowns; see *Mitigation* section below) that will preclude take of these species.

Level A Harassment Calculations

Carnival intends to avoid Level A harassment take by shutting down pile driving activities at approach of any marine mammal to the representative Level A harassment (PTS onset) ensonification zone up to a practical shutdown monitoring distance. As small and cryptic harbor seals may enter the Level A harassment zone (120.2 m for impact pile driving) before shutdown mitigation procedures can be implemented, and some animals may occur between the maximum Level A harassment ensonification zone (120.2 m for impact pile driving) and the maximum shutdown zone (50 m, see *Mitigation* section), we based our estimates for potential take due to Level A harassment for harbor seals on the calculations below (*Level A harassment zone/pile installation method * density * # of pile driving days*).

- For impact pile driving: 0.114852 (Level A zone area) * 1.38 (density) * 26 days = 4.12 seals.
- For vibratory pile driving: * 0.003154 (Level A zone area) * 1.38 (density) * 26 days = 0.11 seals.

For the entire Level A harassment zone, the total is 4.23 seals. Based on these calculations we conservatively estimate that 5 of the Level B harassment takes calculated above for harbor seals have the potential to be takes by Level A harassment (Table 6).

TABLE 6—AUTHORIZED TAKE BY LEVEL A HARASSMENT AND LEVEL B HARASSMENT, BY SPECIES AND STOCK, RESULTING FROM PLANNED CARNIVAL PROJECT ACTIVITIES

Common name	Stock	Density (km^2)	Activity	Level B harassment zone (km^2)	Estimated take daily	Days of activity	Total Level B take	Level A take	Total authorized take	Authorized take as percentage of stock
Gray whale	Eastern North Pacific.	0.01791	Impact pile driving.	0.39	<0.01	26	0.2	0	0	0.00
			Vibratory pile driving.	27.42	0.49	26	12.77			
Humpback whale	CA/OR/WA.	0.00908	Impact pile driving.	0.39	<0.01	26	0.01	0	0	0.00

TABLE 6—AUTHORIZED TAKE BY LEVEL A HARASSMENT AND LEVEL B HARASSMENT, BY SPECIES AND STOCK, RESULTING FROM PLANNED CARNIVAL PROJECT ACTIVITIES—Continued

Common name	Stock	Density (km^2)	Activity	Level B harassment zone (km^2)	Estimated take daily	Days of activity	Total Level B take	Level A take	Total authorized take	Authorized take as percentage of stock
			Vibratory pile driving.	27.42	0.25	26	6.47			
Short-beaked common dolphin.	CA/OR/WA.	1.32	Impact pile driving.	0.39	0.51	26	13.38	0	942	0.10
	.....			Vibratory pile driving	27.42	36.19	26	941.05		
Long-beaked common dolphin.	California	1.32	Impact pile driving.	0.39	0.51	26	13.38	0	942	0.92
			Vibratory pile driving.	27.42	36.19	26	941.05			
Common bottlenose dolphin.	Coastal California.	0.17	Impact pile driving.	0.39	0.07	26	1.72	0	122	26.93
			Vibratory pile driving.	27.42	4.66	26	121.20			
California sea lion	U.S.	3.13	Impact pile driving.	0.39	1.22	26	31.74	0	2,232	0.87
			Vibratory pile driving.	27.42	85.82	26	2231.44			
Harbor seal	California	1.38	Impact pile driving.	0.39	0.54	26	13.99	5	984	3.18
			Vibratory pile driving.	27.42	37.84	26	983.83			

There are a number of reasons why the estimates of potential incidents of take are likely to be conservative. We used conservative estimates of density to calculate takes for each species. Additionally, in the context of stationary activities such as pile driving, and in areas where resident animals may be present, this number represents the number of instances of take that may occur to a small number of individuals, with a notably smaller number of animals being exposed more than once. While pile driving can occur any day throughout the in-water work window, and the analysis is conducted on a per day basis, only a fraction of that time is actually spent pile driving. The potential effectiveness of mitigation measures in reducing the number of takes is also not quantified in the take estimation process. For these reasons, these take estimates may be conservative, especially if each take is considered a separate individual animal.

Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

In addition to the measures described later in this section, Carnival will employ the following standard mitigation measures:

- Conduct briefings between construction supervisors and crews and the marine mammal monitoring team prior to the start of all pile driving activity, and when new personnel join the work, to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures;
- For in-water heavy machinery work other than pile driving (*e.g.,* standard barges, etc.), if a marine mammal comes within 10 m, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include the following activities: (1) Movement of the barge to the pile location; or (2) positioning of the pile on the substrate via a crane (*i.e.,* stabbing the pile);
- Work may only occur during daylight hours, when visual monitoring of marine mammals can be conducted;
- For those marine mammals for which Level B harassment take has not been requested, in-water pile driving

will shut down immediately if such species are observed within or entering the monitoring zone (*i.e.,* Level B harassment zone); and

• If take reaches the authorized limit for an authorized species, pile installation will be stopped as these species approach the Level B harassment zone to avoid additional take.

The following measures apply to Carnival's mitigation requirements:

Establishment of Shutdown Zone for Level A Harassment—For all pile driving activities, Carnival will establish a shutdown zone. The purpose of a shutdown zone is generally to define an area within which shutdown of activity will occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Conservative shutdown zones of 300 m and 8,100 m for impact and vibratory pile driving respectively will be implemented for low-frequency cetaceans to prevent incidental harassment exposure for these activities. Monitoring of such a large area is practicable in the POLB because the jetties create confined entrances to the Port and Protected Species Observers (PSOs) monitoring at these entrances can ensure no animals enter to Port and shutdown zones (see Figures 3 and 4 of the applicant's Marine Mammal Mitigation and Monitoring Plan for location of PSOs). For impact and vibratory pile driving, Carnival will implement shutdown zones of 10 m for mid-frequency cetaceans and otariid pinnipeds and 50 m for phocid pinnipeds. These shutdown zones will be used to prevent incidental Level A harassment exposures from impact pile driving for mid-frequency cetaceans and otariid pinnipeds, and to reduce the potential for such take for phocid pinnipeds (Table 7). The placement of PSOs during all pile driving activities (described in detail in the *Monitoring and Reporting Section*) will ensure shutdown zones are visible. The 50 m zone is the practical distance Carnival anticipates phocid pinnipeds can be effectively observed in the project area.

TABLE 7—MONITORING AND SHUTDOWN ZONES FOR EACH PROJECT ACTIVITY

Source	Monitoring zone (m)	Shutdown zone (m)
Impact Pile Driving	[1] 300	Low-frequency cetaceans: 300. Phocid pinnipeds: 50. Mid-frequency cetaceans and otariid pinnipeds: 10.
Vibratory Pile Driving	8,100	Low-frequency cetaceans: 8,100. Phocid pinnipeds: 50. Mid-frequency cetaceans and otariid pinnipeds: 10.

[1] Carnival is also required to establish and implement a Level A harassment monitoring zone during impact pile driving for harbor seals extending to 120 m.

Establishment of Monitoring Zones for Level B Harassment—Carnival will establish monitoring zones to correlate with Level B harassment zones which are areas where SPLs are equal to or exceed the 160 dB re: 1 μPa (rms) threshold for impact pile driving and the 120 dB re: 1 μPa (rms) threshold during vibratory pile driving. Monitoring zones provide utility for observing by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring zones enable observers to be aware of and communicate the presence of marine mammals in the project area outside the shutdown zone and thus prepare for a potential cease of activity should the animal enter the shutdown zone. Carnival will implement a 300 m monitoring zone for impact pile driving and an 8,100 m monitoring zone for vibratory pile driving (Table 7). Placement of PSOs on vessels at entrances to POLB outside the breakwaters will allow PSOs to observe marine mammals traveling into the POLB (see Figures 3 and 4 of the applicant's Marine Mammal Mitigation and Monitoring Plan for location of PSOs). As the applicants anticipate impact and vibratory pile driving to occur in close temporal succession, the applicants indicate they plan to use 7 observers for all pile driving activities.

Soft Start—The use of soft-start procedures are believed to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors will be required to provide an initial set of strikes from the hammer at reduced energy, with each strike followed by a 30-second waiting period. This procedure will be conducted a total of three times before impact pile driving begins. Soft start will be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer. Soft start is not required during vibratory pile driving activities.

Pile driving energy attenuator—Use of a marine pile-driving energy attenuator (*i.e.,* air bubble curtain system) will be implemented by Carnival during impact and vibratory pile driving of all steel pipe piles. The use of sound attenuation will reduce SPLs and the size of the zones of influence for Level A harassment and Level B harassment. Bubble curtains will meet the following requirements:

• The bubble curtain must distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column.

• The lowest bubble ring shall be in contact with the mudline for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent mudline contact. No parts of the ring or other objects shall prevent full mudline contact.

• The bubble curtain shall be operated such that there is proper (equal) balancing of air flow to all bubblers.

• The applicant shall require that construction contractors train personnel in the proper balancing of air flow to the bubblers and corrections to the attenuation device to meet the performance standards. This shall occur prior to the initiation of pile driving activities.

Pre-Activity Monitoring—Prior to the start of daily in-water construction activity, or whenever a break in pile driving of 30 minutes or longer occurs, PSOs will observe the shutdown and monitoring zones for a period of 30 minutes. The shutdown zone will be cleared when a marine mammal has not been observed within the zone for that 30-minute period. If a marine mammal is observed within the shutdown zone, a soft-start cannot proceed until the animal has left the zone or has not been observed for 15 minutes. If the Level B harassment zone has been observed for

30 minutes and non-permitted species are not present within the zone, soft start procedures can commence and work can continue even if visibility becomes impaired within the Level B harassment monitoring zone. When a marine mammal permitted for take by Level B harassment is present in the Level B harassment zone, activities may begin and Level B harassment take will be recorded. If work ceases for more than 30 minutes, the pre-activity monitoring of both the Level B harassment and shutdown zone will commence again.

Timing and Environmental Restrictions—Carnival will only conduct pile driving activities during daylight hours. To ensure the monitoring zone for low-frequency cetaceans can be adequately monitored to preclude all incidental take of these species, pile driving activities may not be conducted in conditions with limited visibility (heavy fog, heavy rain, and Beaufort Sea states above 4) that would diminish the PSOs ability to adequately monitor this zone.

Based on our evaluation of the applicant's planned measures, NMFS has determined that the mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat).
- Mitigation and monitoring effectiveness.

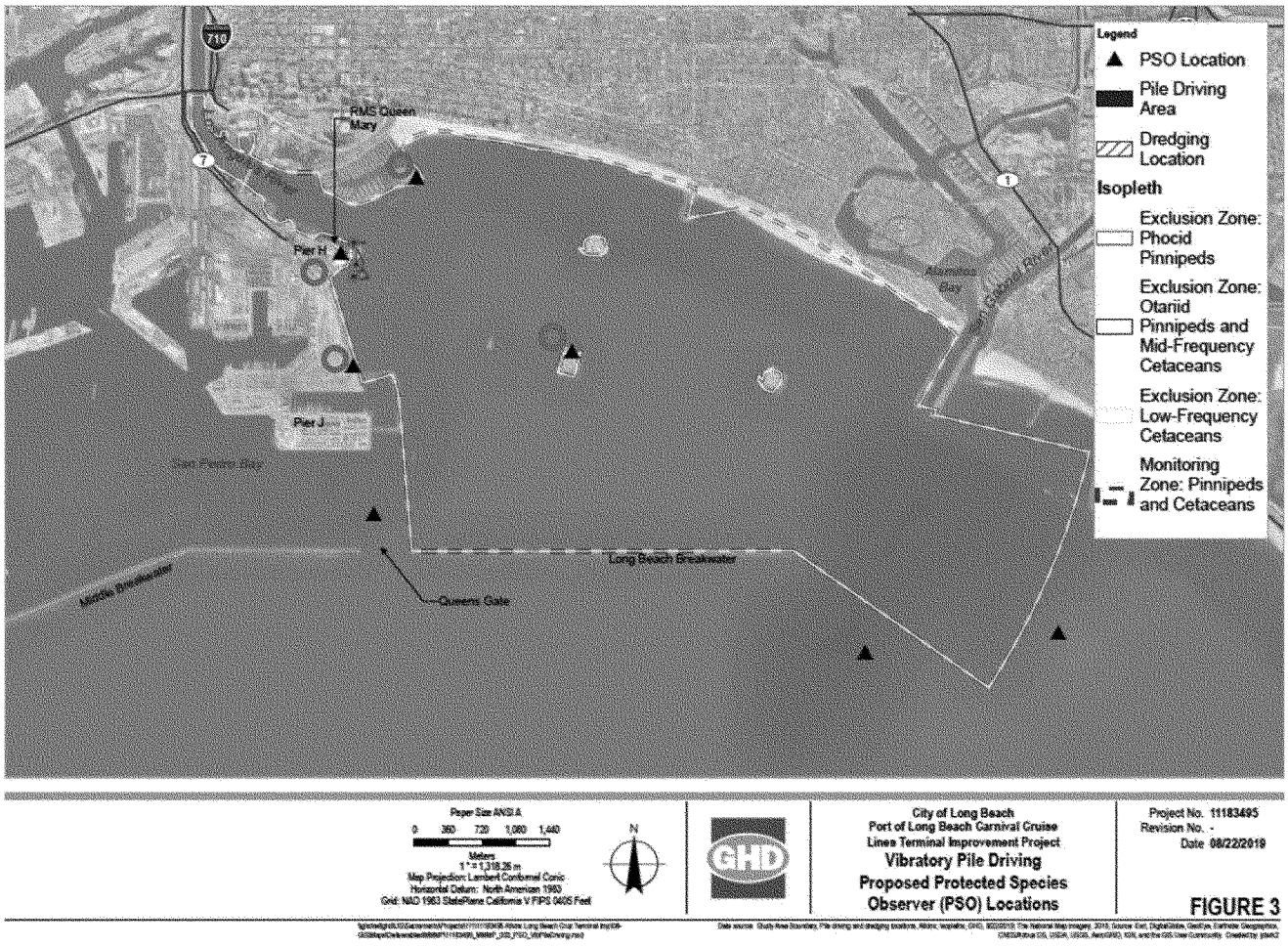
Marine Mammal Visual Monitoring

Monitoring shall be conducted by NMFS-approved observers. Trained observers shall be placed from the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator. Observer training must be provided prior to project start, and shall include instruction on species identification (sufficient to distinguish the species in the project area), description and categorization of observed behaviors and interpretation of behaviors that may be construed as being reactions to the specified activity, proper completion of data forms, and other basic components of biological monitoring, including tracking of observed animals or groups of animals such that repeat sound exposures may be attributed to individuals (to the extent possible).

Monitoring will be conducted 30 minutes before, during, and 30 minutes after pile driving activities. In addition, observers shall record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven. Pile driving activities include the time to install a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

A total of seven PSOs will be based on land and vessels. During all pile driving activities observers will be stationed at the project site (Pier H) and six other locations in the POLB and at the entrance to the POLB. These stations will allow full monitoring of the impact and vibratory pile driving monitoring zones. At least 4 PSOs are required during impact pile driving and at least 7 PSOs are required during vibratory pile driving as shown in Figure 2. All PSOs locations are required during vibratory pile driving (shown as triangles in Figure 2), and PSOs must be located at the 4 PSO locations closest to the project site (shown as triangles next to circles) during impact pile driving.

Figure 2 -- Location of PSOs During Project Activities (Adapted from Figure 3 in the Marine Mammal Monitoring Plan, dated September, 2019).



PSOs will scan the waters using binoculars, and/or spotting scopes, and will use a handheld GPS or range-finder device to verify the distance to each sighting from the project site. All PSOs will be trained in marine mammal identification and behaviors and are required to have no other project-related tasks while conducting monitoring. In addition, monitoring will be conducted by qualified observers, who will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. Carnival will adhere to the following PSO qualifications:

(i) Independent observers (*i.e.,* not construction personnel) are required.

(ii) At least one observer must have prior experience working as an observer.

(iii) Other observers may substitute education (degree in biological science or related field) or training for experience.

(iv) Where a team of three or more observers are required, one observer shall be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer.

(v) Carnival shall submit observer CVs for approval by NMFS.

Additional standard observer qualifications include:

- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

Observers will be required to use approved data forms (see data collection forms in the applicant's Marine Mammal Mitigation and Monitoring Plan). Among other pieces of information, Carnival will record detailed information about any implementation of shutdowns, including the distance of animals to the

pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, Carnival will attempt to distinguish between the number of individual animals taken and the number of incidences of take. We require that, at a minimum, the following information be collected on the sighting forms:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Weather parameters (*e.g.,* percent cover, visibility);
- Water conditions (*e.g.,* sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity, and if possible, the correlation to SPLs;
- Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
- Description of implementation of mitigation measures (*e.g.,* shutdown or delay);
- Locations of all marine mammal observations; and
- Other human activity in the area.

A draft report will be submitted to NMFS within 90 days of the completion of marine mammal monitoring, or 60 days prior to the requested date of issuance of any future IHA for projects at the same location, whichever comes first. The report will include marine mammal observations pre-activity, during-activity, and post-activity during pile driving days (and associated PSO data sheets/raw sightings data), and will also provide descriptions of any behavioral responses to construction activities by marine mammals and a complete description of all mitigation shutdowns and the results of those actions and an extrapolated total take estimate based on the number of marine mammals observed during the course of construction. A final report must be submitted within 30 days following resolution of comments on the draft report.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as an injury, serious injury or mortality, Carnival will immediately cease the specified activities and report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator. The report will include the following information:

- Description of the incident;
- Environmental conditions (*e.g.,* Beaufort sea state, visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities will not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with Carnival to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Carnival will not be able to resume their activities until notified by NMFS via letter, email, or telephone.

In the event that Carnival discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition as described in the next paragraph), Carnival will immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS West Coast Stranding Hotline and/or by email to the West Coast Regional Stranding Coordinator. The report will include the same information identified in the paragraph above. Activities will be able to continue while NMFS reviews the circumstances of the incident. NMFS will work with Carnival to determine whether modifications in the activities are appropriate.

In the event that Carnival discovers an injured or dead marine mammal and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Carnival will report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS West Coast Stranding Hotline and/or by email to the West Coast Regional Stranding Coordinator, within 24 hours of the discovery. Carnival will provide photographs, video footage (if available), or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Pile driving activities associated with the Port of Long Beach Cruise Terminal Improvement Project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) or Level A harassment (auditory injury), incidental to underwater sounds generated from pile driving. Potential takes could occur if individuals are present in the ensonified zone when pile driving occurs. Level A harassment is only anticipated for harbor seals.

No serious injury or mortality is anticipated given the nature of the activities and measures designed to minimize the possibility of injury to marine mammals. The potential for these outcomes is minimized through the construction method and the implementation of the planned mitigation measures. Specifically, vibratory and impact hammers will be the primary methods of installation.

Piles will first be installed using vibratory pile driving. Vibratory pile driving produces lower SPLs than impact pile driving. The rise time of the sound produced by vibratory pile driving is slower, reducing the probability and severity of injury. Impact pile driving produces short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks. When impact pile driving is used, implementation of soft start and shutdown zones significantly reduces any possibility of injury. Given sufficient ''notice'' through use of soft starts (for impact driving), marine mammals are expected to move away from a sound source that is annoying prior to it becoming potentially injurious. Carnival will use up to seven PSOs stationed strategically to increase detectability of marine mammals, enabling a high rate of success in implementation of shutdowns to avoid injury for most species.

Carnival's planned activities are localized and of relatively short duration (a maximum of 26 days of pile driving for 49 piles). The project area is also very limited in scope spatially, as all work is concentrated on a single pier. Localized and short-term noise exposures produced by project activities may cause short-term behavioral modifications in pinnipeds and mid-frequency cetaceans. Moreover, the planned mitigation and monitoring measures are expected to further reduce the likelihood of injury, as it is unlikely an animal would remain in close proximity to the sound source, as well as reduce behavioral disturbances.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff 2006; HDR, Inc. 2012; Lerma 2014; ABR 2016). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. The pile driving activities analyzed here are similar to, or less impactful than, numerous other construction activities conducted in Southern California, which have taken place with no known long-term adverse consequences from behavioral harassment. Level B harassment will be reduced to the level of least practicable adverse impact through use of mitigation measures described herein and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring. While vibratory pile driving associated with the planned project may produce sounds above ambient at greater distances from the project site, thus intruding on some habitat, the project site itself is located in an industrialized port, the majority of the ensonified area is within in the POLB, and sounds produced by the planned activities are anticipated to quickly become indistinguishable from other background noise in port as they attenuate to near ambient SPLs moving away from the project site. Therefore, we expect that animals annoyed by project sound would simply avoid the area and use more-preferred habitats.

In addition to the expected effects resulting from authorized Level B harassment, we anticipate that a small number of harbor seals may sustain some limited Level A harassment in the form of auditory injury. However, animals that experience PTS would likely only receive slight PTS, *i.e.* minor degradation of hearing capabilities within regions of hearing that align most completely with the energy produced by pile driving (*i.e.,* the low-frequency region below 2 kHz), not severe hearing impairment or impairment in the regions of greatest hearing sensitivity. If hearing impairment occurs, it is most likely that the affected animal's threshold would increase by a few dBs, which in most cases is not likely to meaningfully affect its ability to forage and communicate with conspecifics. As described above, we expect that marine mammals will be likely to move away from a sound source that represents an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice through use of soft start.

The project also is not expected to have significant adverse effects on affected marine mammal habitat. The planned project activities will not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammal foraging opportunities in a limited portion of the foraging range. However, because of the short duration of the activities, the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized.
- The Level A harassment exposures (harbor seals only) are anticipated to result only in slight PTS, within the lower frequencies associated with pile driving;
- The anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior that will not result in fitness impacts to individuals;
- The specified activity and ensonification area is very small relative to the overall habitat ranges of all species and does not include habitat areas of special significance (BIAs or ESA-designated critical habitat); and
- The presumed efficacy of the planned mitigation measures in reducing the effects of the specified activity to the level of least practicable adverse impact.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

Table 7 demonstrates the number of animals that could be exposed to received noise levels that could cause Level B harassment and Level A harassment (harbor seals only) for Carnival's planned activities in the project area site relative to the total stock abundance. Our analysis shows that less than one-third of each affected stock could be taken by harassment (Table 7). The numbers of animals authorized to be taken for these stocks

would be considered small relative to the relevant stock's abundances even if each estimated taking occurred to a new individual—an extremely unlikely scenario.

Based on the analysis contained herein of the planned activity (including the planned mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks will not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our action with respect to environmental consequences on the human environment. This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental harassments authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat.

No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Authorization

NMFS has issued an IHA to Carnival for the incidental take of marine mammals due to in-water construction work associated with the Port of Long Beach Cruise Terminal Improvement Project in Port of Long Beach, California from November 19, 2019 to November 18, 2020, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: November 19, 2019.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

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BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XR035

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Parallel Thimble Shoal Tunnel Project in Virginia Beach, Virginia

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from the Chesapeake Tunnel Joint Venture (CTJV) for authorization to take marine mammals incidental to Parallel Thimble Shoal Tunnel Project (PTST) in Virginia Beach, Virginia. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-year renewal that could be issued under certain circumstances and if all requirements are met, as described in *Request for Public Comments* at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than December 26, 2019.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Pauline@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Robert Pauline, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for

taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other means of effecting the least practicable [adverse] impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental harassment authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On May 24, 2019, NMFS received a request from the CTJV for an IHA to take marine mammals incidental to pile driving and removal at the Chesapeake Bay Bridge and Tunnel (CBBT) near Virginia Beach, Virginia. The application was deemed adequate and complete on October 11, 2019. The CTJV's request is for take of small numbers of harbor seal (*Phoca vitulina*), gray seal (*Halichoerus grypus*), bottlenose dolphin (*Tursiops truncatus*), harbor porpoise (*Phocoena phocoena*) and humpback whale (*Megaptera novaeangliae*) by Level A and Level B harassment. Neither CTJV nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS previously issued an IHA to the CTJV for similar work (83 FR 36522; July 30, 2018). However, due to design and schedule changes only a small portion of that work was conducted under the issued IHA. This proposed IHA covers one year of a five-year project.

Description of Proposed Activity

Overview

The CTJV has requested authorization for take of marine mammals incidental to in-water construction activities associated with the PTST project. The project consists of the construction of a two-lane parallel tunnel to the west of the existing Thimble Shoal Tunnel, connecting Portal Island Nos. 1 and 2 of the CBBT facility which extends across the mouth of the Chesapeake Bay near Virginia Beach, Virginia. Upon completion, the new tunnel will carry two lanes of southbound traffic and the existing tunnel will remain in operation and carry two lanes of northbound traffic. The PTST project will address existing constraints to regional mobility based on current traffic volume along the facility. Construction will include the installation of 878 piles over 188 days as shown below:

- 180 12-inch timber piles
- 140 36-inch steel pipe piles
- 500 36-inch interlocked pipes
- 58 42-inch steel casings

These will be installed using impact driving, vibratory driving and drilling with down-the-hole (DTH) hammers. Some piles will be removed via vibratory hammer. These activities will introduce sound into the water at levels which are likely to result in behavioral harassment or auditory injury based on expected marine mammal presence in the area. In-water construction associated with the project is anticipated to begin in fall of 2019.

Dates and Duration

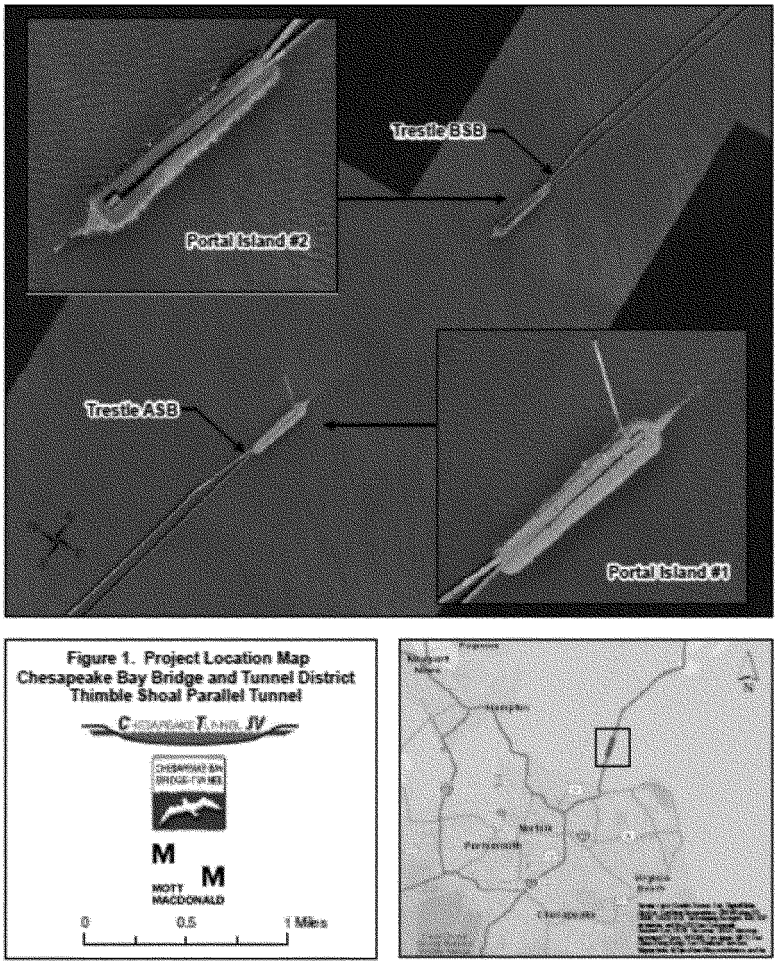
Work authorized under the proposed IHA is anticipated to take 188 days and would occur during standard daylight working hours of approximately 8–12 hours per day depending on the season. In-water work would occur every month with the exception of September and October.

The PTST project has been divided into four phases over 5 years. Phase I commenced in June 2017 and consisted of upland pre-tunnel excavation activities, while Phase IV is scheduled to be completed in May of 2022. In-water activities are limited to Phase II and, potentially, Phase IV (if substructure repair work is required at the fishing pier and/or bridge trestles and abutments).

Specific Geographic Region

The PTST project is located between Portal Island Nos. 1 and 2 of the CBBT as shown in Figure 1. A tunnel will be bored underneath the Thimble Shoal Channel connecting the Portal Islands located near the mouth of the Chesapeake Bay. The CBBT is a 23-mile (37 km) long facility that connects the Hampton Roads area of Virginia to the Eastern Shore of Virginia. Water depths within the PTST construction area range from 0 to 60 ft (18.2 m) below Mean Lower Low Water (MLLW). The Thimble Shoal Channel is 1,000 ft (305 m) wide, is authorized to a depth of −55 ft (16.8 m) below MLLW, and is maintained at a depth of 50 ft (15.2 m) MLLW.

Figure 1: Parallel Thimble Shoal Tunnel Project Location



Detailed Description of Specific Activity

The PTST project consists of the construction of a two-lane parallel tunnel to the west of the existing Thimble Shoal Tunnel, connecting Portal Island Nos. 1 and 2. Construction of the tunnel structure will begin on Portal Island No. 1 and move from south to north to Portal Island No. 2.

The tunnel boring machine (TBM) components will be barged and trucked to Portal Island No. 1. The TBM will be assembled within an entry/launch portal that will be constructed on Portal Island No. 1. The machine will then both excavate material and construct the tunnel as it progresses from Portal Island No. 1 to Portal Island No. 2.

Precast concrete tunnel segments will be transported to the TBM for installation. The TBM will assemble the tunnel segments in-place as the tunnel is bored. After the TBM reaches Portal Island No. 2, it will be disassembled, and the components will be removed via an exit/receiving portal on Portal Island No. 2. After the tunnel structure is completed, final upland work for the PTST Project will include installation of the final roadway, lighting, finishes, mechanical systems, and other required internal systems for tunnel use and function. In addition, the existing fishing pier will be repaired and refurbished.

The new parallel two-lane tunnel is 6,350 ft (1935.5 m) in overall total length with 5,356 linear ft (1632.5 m) located below Mean High Water (MHW). Descriptions of upland activities may be found in the application but such actions will not affect marine mammals and are not described here.

Proposed in-water activities include the following and are shown in Table 1:

- *Temporary dock construction:* Construction of a 32,832 ft^2 (3.050 m^2) working platform on the west side of Portal Island No. 1. This construction includes temporary in-water installation of 58 36-inch piles. A 42-inch steel casing will initially be drilled with a DTH hammer for each of the 36-inch piles which will then be installed with an impact hammer. A bubble curtain will be used during the impact driving of 47 of the 36-inch piles while 11 piles are expected to be installed using the impact hammer without a bubble curtain due to water depth of less than 10 ft.
- *Mooring dolphins:* An estimated 180 12-inch timber piles will be used for construction of the temporary mooring dolphins (120 piles at Portal Island No. 1 and 60 piles at Portal Island No. 2) and will be installed and removed using a vibratory hammer. However, should refusal be encountered prior to design tip elevation when driving with the vibratory hammer an impact hammer will be used to drive the remainder of the pile length. No bubble curtains will be utilized for the installation of the timber piles.
- *Construction of two temporary Omega trestles:* 36 in-water 36-inch diameter steel pipe piles will be installed at Portal Island 1 along with 28 in-water 36-inch diameter steel pipe piles at Island 2. These trestles will be offset to the west side of each engineered berm, extending

approximately 659 ft (231.7 m) channelward from Portal Island Nos. 1 and 2, respectively.

• Construction of two engineered berms, approximately 1,395 ft (425 m) in length for Portal Island No. 1 (435 ft (132 m) above MHW and 960 ft (292 m) below MHW) requiring 256 36-inch steel interlocked pipe piles (135 on west side; 121 on east side) and approximately 1,354 ft (451 m) in length for Portal Island No. 2 (446 ft (136 m) above MHW and 908 ft below (277 m) MHW) requiring 244 piles of the same size and type (129 piles on west side; 115 on east side). Both berms will extend channelward from each portal island. Construction methods will include impact pile driving as well as casing advancement by DTH hammer. Interlocked pipe piles will be installed through the use of DTH drilling equipment. This equipment uses reverse circulation drilling techniques in order to advance hollow steel pipes through the existing rock found within the project site. Reverse circulation drilling is a process that involves the use of compressed air to power a down-the-hole hammer drill. In addition to providing the reciprocating action of the drill, the compressed air also serves to lift the drill cuttings away from the face of the drill and direct them back into the drill string where they are collected from the drill system for disposal. Once the pipes are advanced through the rock layer using the DTH technology, they are driven to final grade via traditional impact driving methods.

• Vibratory installation and removal of 12 36-inch steel pipe piles at Portal Island 1 and 16 piles at Portal Island 2 on both sides of the new tunnel alignment for settlement mitigation, support of excavation (SOE), and to facilitate flowable fill placement.

• Some in-water construction activities would occur simultaneously. Table 2 depicts concurrent driving scenarios (*i.e.,* Impact + DTH; DTH + DTH) and the number of days they are anticipated to occur at specific locations (*i.e.* Portal Island 1; Portal Island 2; Portal Island 1 and Portal Island 2).

TABLE 1—PILE DRIVING ACTIVITIES ASSOCIATED WITH THE PTST PROJECT

Pile location	Pile function	Pile type	Installation/removal method	Bubble curtain	Number of piles below MHW	Days per activity (total)	Days per activity (by hammer type)
1	Mooring dolphins	12-inch Timber piles	Vibratory (Install)	No	120	21	12 Days (10 Piles/Day).
			Impact (if needed)	No			3 Days (12 Piles/Day).
			Vibratory (Removal)	No			6 Days (20 Piles/Day).
1	Temporary Dock	42-inch Diameter Steel Pipe Casing	DTH (install)	No	58	48	29 Days (2 Piles/day).
			Vibratory (removal)	No			19 Days (3 Piles/day).
		36-inch Diameter Steel Pipe Pile	Impact	Yes	*58	29	29 Days (2 Piles/day).
1	Omega Trestle	36-inch Diameter Steel Pipe Piles	DTH (Install)	No	**36	78	13 Days (2 Piles/Day).
			Impact	Yes			65 Days (0.4 Piles/Day).
1	Berm Support of Excavation Wall—West Side.	36-inch Diameter Steel Interlocked Pipe Piles.	DTH (install)	No	135	58	45 Days (3 Piles/Day).
			Impact	Yes			13 Days (10 Piles/Day).
1	Berm Support of Excavation Wall—East Side.	36-inch Diameter Steel Interlocked Pipe Piles.	DTH (Install)	No	121	121	80 Days (1.5 Piles/Day).
			Impact	Yes			41 Days (3 Piles/Day).
1	Mooring Piles and Templates	36-inch Diameter Steel Pipe Piles	Vibratory (Install & Removal).	No	12	2	2 Days (12 Piles/Day).
2	Mooring Dolphins	12-inch Timber Piles	Vibratory (Install)	No	60	12	6 Days (10 Piles/Day).
			Impact (if needed)	No			2 Days (15 Piles/Day).***
			Vibratory (Removal)	No			4 Days (20 Piles/Day).
2	Omega Trestle	36-inch Diameter Steel Pipe Piles	DTH (Install)	No	28	28	16 Days (2 Piles/Day).
			Impact	Yes			12 Days (2.33 Piles/Day).
2	Berm Support of Excavation Wall—West Side.	36-inch Diameter Steel Interlocked Pipe Piles.	DTH (Install)	No	129	55	42 Days (3 Piles/Day).
			Impact	Yes			13 Days (9.5 Piles/Day).
2	Berm Support of Excavation Wall—East Side.	36-inch Diameter Steel Interlocked Pipe Piles.	DTH (Install)	No	115	106	71 Days (1.5 Piles/Day).
			Impact	Yes			35 Days (3 Piles/Day).
2	Mooring Piles and Templates	36-inch Diameter Steel Pipe Piles	Vibratory (Install & Removal).	No	16	4	4 Days (4 Piles/Day).
Total					878		

*11 piles will be installed in <10 ft water so bubble curtain will not be used.
**10 piles will be installed in <10 ft water so bubble curtain will not be used.

TABLE 2—CONCURRENT DRIVING SCENARIOS FOR PTST PROJECT

Concurrent driving scenarios	Number of days		
	Island 1	Island 2	Driving at Portal Island 1 and Portal Island 2*
Impact + DTH	13	14	13
DTH + DTH	22	11	17

*Single hammer at each portal island.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see *Proposed Mitigation* and *Proposed Monitoring and Reporting*).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find-species*).

Table 3 lists all species with expected potential for occurrence near the project area and summarizes information related to the population or stock, including regulatory status under the

MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2018). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's United States Atlantic and Gulf of Mexico Marine Mammal Stock Assessments (Hayes *et al.* 2019). All values presented in Table 3 are the most recent available at the time of publication and are available in the 2018 SARs (Hayes *et al.* 2019).

TABLE 3—MARINE MAMMAL SPECIES LIKELY TO OCCUR NEAR THE PROJECT AREA

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenidae:						
North Atlantic right whale [7]	*Eubalaena glacialis*	Western North Atlantic (WNA)	E, D; Y	451 (0, 411 [4]; 2017)	0.9	5.56
Family Balaenopteridae (rorquals):						
Humpback whale [5]	*Megaptera novaeangliae*	Gulf of Maine	-,-; N	896 (.42; 896; 2012)	14.6	9.7
Fin whale [7]	*Balaenoptera physalus*	WNA	E,D; Y	1,618 (0.33; 1,234; 2011	2.5	2.5
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Bottlenose dolphin	*Tursiops truncatus*	WNA Coastal, Northern Migratory.	-,-; Y	6,639 (0.41; 4,759; 2011)	48	6.1–13.2
		WNA Coastal, Southern Migratory.	-,-; Y	7,751 (0.06; 2,353; 2011)	23	0–14.3
		Northern North Carolina Estuarine System.	-,-; Y	823 (0.06; 782; 2013)	7.8	0.8–18.2
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena*	Gulf of Maine/Bay of Fundy	-, -; N	79,833 (0.32; 61,415; 2011).	706	256
Order Carnivora—Superfamily Pinnipedia						
Family Phocidae (earless seals):						
Harbor seal	*Phoca vitulina*	WNA	-; N	75,834 (0.1; 66,884, 2012).	2,006	345
Gray seal [6]	*Halichoerus grypus*	WNA	-; N	27,131 (0.19, 23,158, 2016).	1,359	5,688

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region*. CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

[4] For the North Atlantic right whale the best available abundance estimate is derived from the 2018 North Atlantic Right Whale Consortium 2018 Annual Report Card (Pettis *et al.* 2018).

[5] 2018 U.S. Atlantic SAR for the Gulf of Maine feeding population lists a current abundance estimate of 896 individuals. However, we note that the estimate is defined on the basis of feeding location alone (*i.e.,* Gulf of Maine) and is therefore likely an underestimate.

[6] The NMFS stock abundance estimate applies to U.S. population only, however the actual stock abundance is approximately 505,000.

[7] Species are not expected to be taken or proposed for authorization.

All species that could potentially occur in the proposed survey areas are included in Table 3. However, the temporal and/or spatial occurrence of North Atlantic right whale and fin whale is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here. Between 1998 and 2013, there were no reports of North Atlantic right whale strandings within the Chesapeake Bay and only four reported standings along the coast of Virginia. During this same period, only six fin whale strandings were recorded within the Chesapeake Bay (Barco and Swingle 2014). There were no reports of fin whale strandings (Swingle *et al.* 2017) in 2016. Due to the low occurrence of North Atlantic right whales and fin whales, NMFS is not proposing to authorize take of these species. There are also few reported sightings or observations of either species in the Bay. Since June 7, 2017, elevated North Atlantic right whale mortalities have been documented, primarily in Canada, and were declared an Unusual Mortality Event (UME). As of September 30, 2019, only a single right whale mortality has been documented this year, which occurred offshore of Virginia Beach, VA and was caused by chronic

entanglement. Due to the low occurrence of North Atlantic right whales and fin whales, NMFS is not proposing to authorize take of these species.

Cetaceans

Humpback Whale

The humpback whale is found worldwide in all oceans. Humpbacks occur off southern New England in all four seasons, with peak abundance in spring and summer. In winter, humpback whales from waters off New England, Canada, Greenland, Iceland, and Norway migrate to mate and calve primarily in the West Indies (including the Antilles, the Dominican Republic, the Virgin Islands and Puerto Rico), where spatial and genetic mixing among these groups occurs.

For the humpback whale, NMFS defines a stock on the basis of feeding location, *i.e.,* Gulf of Maine. However, our reference to humpback whales in this document refers to any individuals of the species that are found in the specific geographic region. These individuals may be from the same breeding population (*e.g.,* West Indies breeding population of humpback whales) but visit different feeding areas.

Based on photo-identification only 39 percent of individual humpback whales observed along the mid- and south Atlantic U.S. coast are from the Gulf of Maine stock (Barco *et al.,* 2002). Therefore, the SAR abundance estimate underrepresents the relevant population, *i.e.,* the West Indies breeding population.

Prior to 2016, humpback whales were listed under the ESA as an endangered species worldwide. Following a 2015 global status review (Bettridge *et al.,* 2015), NMFS established 14 DPSs with different listing statuses (81 FR 62259; September 8, 2016) pursuant to the ESA. The West Indies DPS, which consists of the whales whose breeding range includes the Atlantic margin of the Antilles from Cuba to northern Venezuela, and whose feeding range primarily includes the Gulf of Maine, eastern Canada, and western Greenland, was delisted. As described in Bettridge *et al.* (2015), the West Indies DPS has a substantial population size (*i.e.,* approximately 10,000; Stevick *et al.,* 2003; Smith *et al.,* 1999; Bettridge *et al.,* 2015), and appears to be experiencing consistent growth. Humpback whales are the only large cetaceans that are likely to occur in the project area and could be found there at any time of the year. There have been 33 humpback whale strandings recorded in Virginia between 1988 and 2013. Most of these strandings were reported from ocean facing beaches, but 11 were also within the Chesapeake Bay (Barco and Swingle 2014). Strandings occurred in all seasons, but were most common in the spring.

Since January 2016, elevated humpback whale mortalities have occurred along the Atlantic coast from Maine through Florida. The event has been declared a UME with 105 strandings recorded, 7 of which occurred in or near the mouth of the Chesapeake Bay. Partial or full necropsy examinations have been conducted on approximately half of the known cases. A portion of the whales have shown evidence of pre-mortem vessel strike; however, this finding is not consistent across all of the whales examined so more research is needed. NOAA is consulting with researchers that are conducting studies on the humpback whale populations, and these efforts may provide information on changes in whale distribution and habitat use that could provide additional insight into how these vessel interactions occurred. More detailed information is available at: *https://www.fisheries.noaa.gov/national/marine-life-distress/2016-2019-humpback-whale-unusual-mortality-event-along-atlantic-coast.* Three previous UMEs involving humpback whales have occurred since 2000, in 2003, 2005, and 2006.

Humpback whales use the mid-Atlantic as a migratory pathway to and from the calving/mating grounds, but it may also be an important winter feeding area for juveniles. Since 1989, observations of juvenile humpbacks in the mid-Atlantic have been increasing during the winter months, peaking from January through March (Swingle *et al.* 1993). Biologists theorize that non-reproductive animals may be establishing a winter feeding range in the mid-Atlantic since they are not participating in reproductive behavior in the Caribbean. Swingle *et al.* (1993) identified a shift in distribution of juvenile humpback whales in the nearshore waters of Virginia, primarily in winter months. Identified whales using the mid-Atlantic area were found to be residents of the Gulf of Maine and Atlantic Canada (Gulf of St. Lawrence and Newfoundland) feeding groups; suggesting a mixing of different feeding populations in the Mid-Atlantic region.

Bottlenose Dolphin

The bottlenose dolphin occurs in temperate and tropical oceans throughout the world, ranging in latitudes from 45° N to 45° S (Blaylock 1985). In the western Atlantic Ocean there are two distinct morphotypes of bottlenose dolphins, an offshore type that occurs along the edge of the continental shelf as well as an inshore type. The inshore morphotype can be found along the entire United States coast from New York to the Gulf of Mexico, and typically occurs in waters less than 20 meters deep (NOAA Fisheries 2016a). Bottlenose dolphins found in Virginia are representative primarily of either the northern migratory coastal stock, southern migratory coastal stock, or the Northern North Carolina Estuarine System Stock (NNCES).

The northern migratory coastal stock is best defined by its distribution during warm water months when the stock occupies coastal waters from the shoreline to approximately the 20-m isobath between Assateague, Virginia, and Long Island, New York (Garrison *et al.* 2017b). The stock migrates in late summer and fall and, during cold water months (best described by January and February), occupies coastal waters from approximately Cape Lookout, North Carolina, to the North Carolina/Virginia border (Garrison *et al.* 2017b). Historically, common bottlenose dolphins have been rarely observed during cold water months in coastal waters north of the North Carolina/Virginia border, and their northern distribution in winter appears to be limited by water temperatures. Overlap with the southern migratory coastal stock in coastal waters of northern North Carolina and Virginia is possible during spring and fall migratory periods, but the degree of overlap is unknown and it may vary depending on annual water temperature (Garrison *et al.* 2016). When the stock has migrated in cold water months to coastal waters from just north of Cape Hatteras, North Carolina, to just south of Cape Lookout, North Carolina, it overlaps spatially with the Northern North Carolina Estuarine System (NNCES) Stock (Garrison *et al.* 2017b).

The southern migratory coastal stock migrates seasonally along the coast between North Carolina and northern Florida (Garrison *et al.* 2017b). During January–March, the southern migratory coastal stock appears to move as far south as northern Florida. During April–June, the stock moves back north past Cape Hatteras, North Carolina (Garrison *et al.* 2017b), where it overlaps, in coastal waters, with the NNCES stock (in waters ≤1 km from shore). During the warm water months of July–August, the stock is presumed to occupy coastal waters north of Cape Lookout, North Carolina, to Assateague, Virginia, including the Chesapeake Bay.

The NNCES stock is best defined as animals that occupy primarily waters of the Pamlico Sound estuarine system (which also includes Core, Roanoke, and Albemarle sounds, and the Neuse River) during warm water months (July–August). Members of this stock also use coastal waters (≤1 km from shore) of North Carolina from Beaufort north to Virginia Beach, Virginia, including the lower Chesapeake Bay. A community of NNCES dolphins are likely year-round Bay residents (Patterson, Pers. Comm).

Harbor Porpoise

The harbor porpoise is typically found in colder waters in the northern hemisphere. In the western North Atlantic Ocean, harbor porpoises range from Greenland to as far south as North Carolina (Barco and Swingle 2014). They are commonly found in bays, estuaries, and harbors less than 200 meters deep (NOAA Fisheries 2017c). Harbor porpoises in the United States are made up of the Gulf of Main/Bay of Fundy stock. Gulf of Main/Bay of Fundy stock are concentrated in the Gulf of Maine in the summer, but are widely dispersed from Maine to New Jersey in the winter. South of New Jersey, harbor porpoises occur at lower densities. Migrations to and from the Gulf of Maine do not follow a defined route. (NOAA Fisheries 2016c).

Harbor porpoise occur seasonally in the winter and spring in small numbers. Strandings occur primarily on ocean facing beaches, but they occasionally travel into the Chesapeake Bay to forage and could occur in the project area (Barco and Swingle 2014). Since 1999, stranding incidents have ranged widely from a high of 40 in 1999 to 2 in 2011, 2012, and 2016 (Barco *et al.* 2017).

Pinnipeds

Harbor Seal

The harbor seal occurs in arctic and temperate coastal waters throughout the northern hemisphere, including on both the east and west coasts of the United States. On the east coast, harbor seals can be found from the Canadian Arctic down to Georgia (Blaylock 1985). Harbor seals occur year-round in Canada and Maine and seasonally (September–May) from southern New England to New Jersey (NOAA Fisheries 2016d). The range of harbor seals appears to be shifting as they are regularly reported further south than they were historically. In recent years, they have established haul out sites in the Chesapeake Bay including on the portal islands of the CBBT (Rees *et al.* 2016, Jones *et al.* 2018).

Harbor seals are the most common seal in Virginia (Barco and Swingle 2014). They can be seen resting on the rocks around the portal islands of the CBBT from December through April. Seal observation surveys conducted at the CBBT recorded 112 seals during the 2014/2015 season, 184 seals during the 2015/2016 season, 308 seals in the 2016/2017 season and 340 seals during the 2017/2018 season. They are primarily concentrated north of the project area at Portal Island No. 3 (Rees *et al* 2016; Jones *et al.* 2018).

Gray Seal

The gray seal occurs on both coasts of the Northern Atlantic Ocean and are divided into three major populations (NOAA Fisheries 2016b). The western north Atlantic stock occurs in eastern Canada and the northeastern United States, occasionally as far south as North Carolina. Gray seals inhabit rocky coasts and islands, sandbars, ice shelves and icebergs (NOAA Fisheries 2016b). In the United States, gray seals congregate in the summer to give birth at four established colonies in Massachusetts and Maine (NOAA Fisheries 2016b). From September through May, they disperse and can be abundant as far south as New Jersey. The range of gray seals appears to be shifting as they are regularly being reported further south than they were historically (Rees *et al.* 2016).

Gray seals are uncommon in Virginia and the Chesapeake Bay. Only 15 gray seal strandings were documented in Virginia from 1988 through 2013 (Barco and Swingle 2014). They are rarely found resting on the rocks around the portal islands of the CBBT from December through April alongside harbor seals. Seal observation surveys conducted at the CBBT recorded one gray seal in each of the 2014/2015 and 2015/2016 seasons while no gray seals were reported during the 2016/2017 and 2017/2018 seasons (Rees *et al.* 2016, Jones *et al.* 2018).

Habitat

No ESA-designated critical habitat overlaps with the project area. A migratory Biologically Important Area (BIA) for North Atlantic right whales is found offshore of the mouth of the Chesapeake Bay but does not overlap with the project area. As previously described, right whales are rarely observed in the Bay and sound from the proposed in-water activities are not anticipated to propagate outside of the Bay to the boundary of the designated BIA.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 4.

TABLE 4—MARINE MAMMAL HEARING GROUPS

[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.

TABLE 4—MARINE MAMMAL HEARING GROUPS—Continued

[NMFS, 2018]

Hearing group	Generalized hearing range *
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.* 2006; Kastelein *et al.* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. Five marine mammal species (3 cetacean and 2 phocid pinniped) have the reasonable potential to co-occur with the proposed survey activities. Please refer to Table 3. Of the cetacean species that may be present, one is classified as low-frequency (humpback whale), one is classified as mid-frequency (bottlenose dolphin) and one is classified as high-frequency (harbor porpoise).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The *Estimated Take by Incidental Harassment* section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The *Negligible Impact Analysis and Determination* section considers the content of this section, the *Estimated Take by Incidental Harassment* section, and the *Proposed Mitigation* section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Description of Sound Sources

The marine soundscape is comprised of both ambient and anthropogenic sounds. Ambient sound is defined as the all-encompassing sound in a given place and is usually a composite of sound from many sources both near and far. The sound level of an area is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* waves, wind, precipitation, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (*e.g.,* vessels, dredging, aircraft, construction).

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise ''ambient'' or ''background'' sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

In-water construction activities associated with the project would include impact pile driving, vibratory pile driving, vibratory pile removal, and drilling with a DTH hammer. The sounds produced by these activities fall into one of two general sound types: Impulsive and non-impulsive. Impulsive sounds (*e.g.,* explosions, gunshots, sonic booms, impact pile driving) are typically transient, brief (less than 1 second), broadband, and consist of high peak sound pressure with rapid rise time and rapid decay (ANSI 1986; NIOSH 1998; NMFS 2018). Non-impulsive sounds (*e.g.* aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems) can be broadband, narrowband or tonal, brief or prolonged (continuous or intermittent), and typically do not have the high peak sound pressure with raid rise/decay time that impulsive sounds do (ANSI 1995; NIOSH 1998; NMFS 2018). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward 1997 in Southall *et al.* 2007).

Impact hammers operate by repeatedly dropping a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper 2005). Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the sediment. Vibratory hammers produce significantly less sound than impact hammers. Peak sound pressure levels (SPLs) may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.* 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (Nedwell and Edwards 2002; Carlson *et al.* 2005). A DTH hammer is used to place hollow steel piles or casings by drilling. A DTH hammer is a drill bit that drills through the bedrock using a pulse mechanism that functions at the bottom of the hole. This pulsing bit breaks up rock to allow removal of debris and insertion of the pile. The head extends so that the drilling takes place below the pile. Sound associated with DTH has both continuous and impulsive characteristics and may be appropriately characterized one way or the other depending on the operating parameters and settings that are utilized on a specific device. CTJV conducted sound

source verification (SSV) monitoring prior to the expiration of the previous IHA and determined that impulsive characteristics were predominant as the equipment was employed at the PTST project location (Denes *et al.* 2019).

The likely or possible impacts of CTJV's proposed activity on marine mammals could involve both non-acoustic and acoustic stressors. Potential non-acoustic stressors could result from the physical presence of the equipment and personnel; however, any impacts to marine mammals are expected to primarily be acoustic in nature. Acoustic stressors include effects of heavy equipment operation during pile installation.

Acoustic Impacts

The introduction of anthropogenic noise into the aquatic environment from pile driving is the primary means by which marine mammals may be harassed from CTJV's specified activity. In general, animals exposed to natural or anthropogenic sound may experience physical and psychological effects, ranging in magnitude from none to severe (Southall *et al.* 2007). Exposure to in-water construction noise has the potential to result in auditory threshold shifts and behavioral reactions (*e.g.,* avoidance, temporary cessation of foraging and vocalizing, changes in dive behavior) and/or lead to non-observable physiological responses such an increase in stress hormones ((Richardson *et al.* 1995; Gordon *et al.* 2004; Nowacek *et al.*2007; Southall *et al.* 2007; Gotz *et al.* 2009). Additional noise in a marine mammal's habitat can mask acoustic cues used by marine mammals to carry out daily functions such as communication and predator and prey detection. The effects of pile driving noise on marine mammals are dependent on several factors, including, but not limited to, sound type (*e.g.,* impulsive vs. non-impulsive), the species, age and sex class (*e.g.,* adult male vs. mom with calf), duration of exposure, the distance between the pile and the animal, received levels, behavior at time of exposure, and previous history with exposure (Wartzok *et al.* 2004; Southall *et al.* 2007). Here we discuss physical auditory effects (threshold shifts), followed by behavioral effects and potential impacts on habitat.

Richardson *et al.* (1995) described zones of increasing intensity of effect that might be expected to occur, in relation to distance from a source and assuming that the signal is within an animal's hearing range. First is the area within which the acoustic signal would be audible (potentially perceived) to the animal, but not strong enough to elicit any overt behavioral or physiological response. The next zone corresponds with the area where the signal is audible to the animal and of sufficient intensity to elicit behavioral or physiological responsiveness. Third is a zone within which, for signals of high intensity, the received level is sufficient to potentially cause discomfort or tissue damage to auditory or other systems. Overlaying these zones to a certain extent is the area within which masking (*i.e.,* when a sound interferes with or masks the ability of an animal to detect a signal of interest that is above the absolute hearing threshold) may occur; the masking zone may be highly variable in size.

We describe the more severe effects (*i.e.,* permanent hearing impairment, certain non-auditory physical or physiological effects) only briefly as we do not expect that there is a reasonable likelihood that CTJV's activities would result in such effects (see below for further discussion). NMFS defines a noise-induced threshold shift (TS) as a change, usually an increase, in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2018). The amount of threshold shift is customarily expressed in dB. A TS can be permanent or temporary. As described in NMFS (2018), there are numerous factors to consider when examining the consequence of TS, including, but not limited to, the signal temporal pattern (*e.g.,* impulsive or non-impulsive), likelihood an individual would be exposed for a long enough duration or to a high enough level to induce a TS, the magnitude of the TS, time to recovery (seconds to minutes or hours to days), the frequency range of the exposure (*i.e.,* spectral content), the hearing and vocalization frequency range of the exposed species relative to the signal's frequency spectrum (*i.e.,* how animal uses sound within the frequency band of the signal; *e.g.,* Kastelein *et al.* 2014b), and the overlap between the animal and the source (*e.g.,* spatial, temporal, and spectral).

Permanent Threshold Shift (PTS)—NMFS defines PTS as a permanent, irreversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2018). Available data from humans and other terrestrial mammals indicate that a 40 dB threshold shift approximates PTS onset (see Ward *et al.* 1958, 1959; Ward 1960; Kryter *et al.* 1966; Miller 1974; Ahroon *et al.* 1996; Henderson *et al.* 2008). PTS levels for marine mammals are estimates, as with the exception of a single study unintentionally inducing PTS in a harbor seal (Kastak *et al.* 2008), there are no empirical data measuring PTS in marine mammals largely due to the fact that, for various ethical reasons, experiments involving anthropogenic noise exposure at levels inducing PTS are not typically pursued or authorized (NMFS 2018).

Temporary Threshold Shift (TTS)—A temporary, reversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2018). Based on data from cetacean TTS measurements (see Southall *et al.* 2007), a TTS of 6 dB is considered the minimum threshold shift clearly larger than any day-to-day or session-to-session variation in a subject's normal hearing ability (Schlundt *et al.* 2000; Finneran *et al.* 2000, 2002). As described in Finneran (2016), marine mammal studies have shown the amount of TTS increases with cumulative sound exposure level (SELcum) in an accelerating fashion: At low exposures with lower SELcum, the amount of TTS is typically small and the growth curves have shallow slopes. At exposures with higher SELcum, the growth curves become steeper and approach linear relationships with the noise SEL.

Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that takes place during a time when the animal is traveling through the open ocean, where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. We note that reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.* 2007), so we can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin, beluga whale (*Delphinapterus*

leucas), harbor porpoise, and Yangtze finless porpoise (*Neophocoena asiaeorientalis*)) and five species of pinnipeds exposed to a limited number of sound sources (*i.e.,* mostly tones and octave-band noise) in laboratory settings (Finneran 2015). TTS was not observed in trained spotted (*Phoca largha*) and ringed (*Pusa hispida*) seals exposed to impulsive noise at levels matching previous predictions of TTS onset (Reichmuth *et al.* 2016). In general, harbor seals and harbor porpoises have a lower TTS onset than other measured pinniped or cetacean species (Finneran 2015). Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. No data are available on noise-induced hearing loss for mysticetes. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007), Finneran and Jenkins (2012), Finneran (2015), and Table 5 in NMFS (2018).

Behavioral Harassment—Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.,* minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Disturbance may result in changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located. Pinnipeds may increase their haul out time, possibly to avoid in-water disturbance (Thorson and Reyff 2006). Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.,* species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.,* Richardson *et al.* 1995; Wartzok *et al.* 2003; Southall *et al.* 2007; Weilgart 2007; Archer *et al.* 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.* 2012), and can vary depending on characteristics associated with the sound source (*e.g.,* whether it is moving or stationary, number of sources, distance from the source). In general, pinnipeds seem more tolerant of, or at least habituate more quickly to, potentially disturbing underwater sound than do cetaceans, and generally seem to be less responsive to exposure to industrial sound than most cetaceans. Please see Appendices B–C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a ''progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,'' rather than as, more generally, moderation in response to human disturbance (Bejder *et al.* 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure.

As noted above, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.* 1995; NRC, 2003; Wartzok *et al.* 2003). Controlled experiments with captive marine mammals have showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.* 1997; Finneran *et al.* 2003). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds 2002; see also Richardson *et al.* 1995; Nowacek *et al.* 2007).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder 2007; Weilgart 2007; NRC 2005). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight.

Changes in dive behavior can vary widely, and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (*e.g.,* Frankel and Clark 2000; Costa *et al.* 2003; Ng and Leung 2003; Nowacek *et al.* 2004; Goldbogen *et al.* 2013a,b). Variations in dive behavior may reflect interruptions in biologically significant activities (*e.g.,* foraging) or they may be of little biological significance. The impact of an alteration to dive behavior resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.,* bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.,* Croll *et al.* 2001; Nowacek *et al.* 2004; Madsen *et al.* 2006; Yazvenko *et al.* 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Variations in respiration naturally vary with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when

determining the potential for impacts resulting from anthropogenic sound exposure (*e.g.,* Kastelein *et al.* 2001, 2005b, 2006; Gailey *et al.* 2007).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can occur for any of these modes and may result from a need to compete with an increase in background noise or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs (Miller *et al,* 2000; Fristrup *et al.* 2003; Foote *et al,* 2004), while right whales have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al,* 2007b). In some cases, animals may cease sound production during production of aversive signals (Bowles *et al,* 1994).

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.* 1995). For example, gray whales *(Eschrictius robustus*) are known to change direction—deflecting from customary migratory paths—in order to avoid noise from seismic surveys (Malme *et al.* 1984). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.,* Bowles *et al.* 1994; Goold 1996; Stone *et al.* 2000; Morton and Symonds, 2002; Gailey *et al.* 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.,* Blackwell *et al.* 2004; Bejder *et al.* 2006; Teilmann *et al.* 2006).

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.,* directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (Evans and England 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.,* when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been demonstrated for marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (*e.g.,* Beauchamp and Livoreil 1997; Fritz *et al,* 2002; Purser and Radford 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.,* decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.,* Harrington and Veitch, 1992; Daan *et al.* 1996; Bradshaw *et al.* 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a five-day period did not cause any sleep deprivation or stress effects.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.* 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

Stress responses—An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.,* Seyle 1950; Moberg 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.,* Moberg 1987; Blecha 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.* 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and distress is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.,* Holberton *et al.* 1996; Hood *et al.* 1998; Jessop *et al.* 2003; Krausman *et al.* 2004; Lankford *et al.* 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker 2000; Romano *et al.* 2002b) and, more rarely, studied in wild populations (*e.g.,* Romano *et al.* 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals will experience

physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as ''distress.'' In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003).

Masking—Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.* 1995). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* pile driving, shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.,* signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.,* sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Masking of natural sounds can result when human activities produce high levels of background sound at frequencies important to marine mammals. Conversely, if the background level of underwater sound is high (*e.g.* on a day with strong wind and high waves), an anthropogenic sound source would not be detectable as far away as would be possible under quieter conditions and would itself be masked. Busy ship channels traverse Thimble Shoal. Commercial vessels including container ships and cruise ships as well as numerous recreational frequent the area, so background sound levels near the PTST project area are likely to be elevated, although to what degree is unknown.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.,* Clark *et al.* 2009) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.,* Miller *et al.* 2000; Foote *et al.* 2004; Parks *et al.* 2007b; Di Iorio and Clark 2009; Holt *et al.* 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.* 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore 2014). Masking can be tested directly in captive species (*e.g.,* Erbe 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine mammals in the wild (*e.g.,* Branstetter *et al.* 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand 2009). All anthropogenic sound sources, but especially chronic and lower-frequency signals (*e.g.,* from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

Underwater Acoustic Effects

Potential Effects of Pile Driving Sound

The effects of sounds from pile driving might include one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, and masking (Richardson *et al.* 1995; Gordon *et al.* 2003; Nowacek *et al.* 2007; Southall *et al.* 2007). The effects of pile driving on marine mammals are dependent on several factors, including the type and depth of the animal; the pile size and type, and the intensity and duration of the pile driving sound; the substrate; the standoff distance between the pile and the animal; and the sound propagation properties of the environment. Impacts to marine mammals from pile driving activities are expected to result primarily from acoustic pathways. As such, the degree of effect is intrinsically related to the frequency, received level, and duration of the sound exposure, which are in turn influenced by the distance between the animal and the source. The further away from the source, the less intense the exposure should be. The substrate and depth of the habitat affect the sound propagation properties of the environment. In addition, substrates that are soft (*e.g.,* sand) would absorb or attenuate the sound more readily than hard substrates (*e.g.,* rock), which may reflect the acoustic wave. Soft porous substrates would also likely require less time to drive the pile, and possibly less forceful equipment, which would ultimately decrease the intensity of the acoustic source.

In the absence of mitigation, impacts to marine species could be expected to include physiological and behavioral responses to the acoustic signature (Viada *et al.* 2008). Potential effects from impulsive sound sources like impact pile driving can range in severity from effects such as behavioral disturbance to temporary or permanent hearing impairment (Yelverton *et al.* 1973). Due to the nature of the pile driving sounds in the project, behavioral disturbance is the most likely effect from the proposed activity. Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing threshold shifts. Note that PTS constitutes injury, but TTS does not (Southall *et al.* 2007).

Non-Auditory Physiological Effects

Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.* 2006; Southall *et al.* 2007). Studies examining such effects are limited. In general, little is known about the potential for pile driving to cause non-auditory physical effects in marine mammals. Available data suggest that such effects, if they occur at all, would presumably be limited to short distances from the sound source and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.* 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. We do not expect any non-auditory physiological effects because of mitigation that prevents animals from approach the source too closely. Marine mammals that show behavioral avoidance of pile driving, including some odontocetes and some pinnipeds,

are especially unlikely to incur non-auditory physical effects.

Disturbance Reactions

Responses to continuous sound, such as vibratory pile installation, have not been documented as well as responses to pulsed sounds. With both types of pile driving, it is likely that the onset of pile driving could result in temporary, short term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include (Richardson *et al.* 1995): Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haul-outs or rookeries). Pinnipeds may increase their haul out time, possibly to avoid in-water disturbance (Thorson and Reyff 2006). If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals, and if so potentially on the stock or species, could potentially be significant (*e.g.,* Lusseau and Bejder 2007; Weilgart 2007).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, or reproduction. Significant behavioral modifications that could potentially lead to effects on growth, survival, or reproduction include:

- Drastic changes in diving/surfacing patterns (such as those thought to cause beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Longer-term habitat abandonment due to loss of desirable acoustic environment; and
- Longer-term cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.* 2007).

Auditory Masking

Natural and artificial sounds can disrupt behavior by masking. The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. Because sound generated from in-water pile driving is mostly concentrated at low frequency ranges, it may have less effect on high frequency echolocation sounds made by porpoises. The most intense underwater sounds in the proposed action are those produced by impact pile driving. Given that the energy distribution of pile driving covers a broad frequency spectrum, sound from these sources would likely be within the audible range of marine mammals present in the project area. Impact pile driving and DTH drilling activities are relatively short-term, with rapid pulses occurring for less than fifteen minutes per pile. The probability for impact pile driving and DTH drilling resulting from this proposed action masking acoustic signals important to the behavior and survival of marine mammal species is low. Vibratory pile driving is also relatively short-term, with rapid oscillations occurring for approximately 30 minutes per pile. It is possible that vibratory pile driving resulting from this proposed action may mask acoustic signals important to the behavior and survival of marine mammal species, but the short-term duration and limited affected area would result in insignificant impacts from masking. Any masking event that could possibly rise to Level B harassment under the MMPA would occur concurrently within the zones of behavioral harassment already estimated for vibratory and impact pile driving, and which have already been taken into account in the exposure analysis. Active pile driving is anticipated to occur for up to 8 hours per day for 188 days, but we do not anticipate masking to significantly affect marine mammals for the reasons listed above.

Airborne Acoustic Effects

Pinnipeds that occur near the project site could be exposed to airborne sounds associated with pile driving that have the potential to cause behavioral harassment, depending on their distance from pile driving activities. Cetaceans are not expected to be exposed to airborne sounds that would result in harassment as defined under the MMPA.

Airborne noise would primarily be an issue for pinnipeds that are swimming or hauled out near the project site within the range of noise levels elevated above the acoustic criteria. Only limited numbers of pinnipeds have used Portal Island 1 and 2 as haulouts (<6 percent of total pinniped sightings). The majority of hauled out pinniped sightings have been found at Portal Island 3 (~90 percent) according to Jones *et al.* (2018), which is 6 km north of Portal Island 2. This is far beyond the distance at which harassment could occur due to airborne noise.

We recognize that pinnipeds in the water could be exposed to airborne sound that may result in behavioral harassment when looking with their heads above water. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled out pinnipeds to exhibit changes in their normal behavior, such as reduction in vocalizations, or cause them to temporarily abandon the area and move further from the source. However, these animals would previously have been 'taken' because of exposure to underwater sound above the behavioral harassment thresholds, which are in all cases larger than those associated with airborne sound. Thus, the behavioral harassment of these animals would already accounted for in these estimates of potential take. Therefore, we do not believe that authorization of incidental take resulting from airborne sound for pinnipeds is warranted, and airborne sound is not discussed further here.

Marine Mammal Habitat Effects

The area likely impacted by the project is relatively small compared to the available habitat for all impacted species and stocks, and does not include any ESA-designated critical habitat. As previously mentioned, no BIAs overlap with the project area. CTJV's proposed construction activities would not result in permanent negative impacts to habitats used directly by marine mammals, but could have localized, temporary impacts on marine mammal habitat including their prey by increasing underwater and airborne SPLs and slightly decreasing water quality. Increased noise levels may affect acoustic habitat (see masking discussion above) and adversely affect marine mammal prey in the vicinity of the project area (see discussion below). During pile driving, elevated levels of underwater noise would ensonify areas

near the project where both fish and mammals occur and could affect foraging success.

There are no known foraging hotspots or other ocean bottom structure of significant biological importance to marine mammals present in the marine waters of the project area. Therefore, the main impact issue associated with the proposed activity would be temporarily elevated sound levels and the associated direct effects on marine mammals, as discussed previously in this document. The primary potential acoustic impacts to marine mammal habitat are associated with elevated sound levels produced by impact, vibratory, and DTH pile installation as well as vibratory pile removal in the project area. Physical impacts to the environment such as construction debris are unlikely.

In-water pile driving would also cause short-term effects on water quality due to increased turbidity. CTJV would employ standard construction best management practices to reducing any potential impacts. Therefore, the impact from increased turbidity levels is expected to be discountable.

In-Water Construction Effects on Potential Foraging Habitat

Pile installation may temporarily increase turbidity resulting from suspended sediments. Any increases would be temporary, localized, and minimal. In general, turbidity associated with pile installation is localized to about a 25-foot (7.6 m) radius around the pile (Everitt *et al.* 1980). Large cetaceans are not expected to be close enough to the project activity areas to experience effects of turbidity, and any small cetaceans and pinnipeds could avoid localized areas of turbidity. Therefore, the impact from increased turbidity levels is expected to be discountable to marine mammals.

Essential Fish Habitat (EFH) for several species or groups of species overlaps with the project area including: Little skate, Atlantic herring, red hake, windowpane flounder, winter skate, clearnose skate, sandbar shark, sand tiger shark, bluefish, Atlantic butterfish, scup, summer flounder, and black sea bass. Use of soft start procedure and bubble curtains will reduce the impacts of underwater acoustic noise to fish from pile driving activities. Avoidance by potential prey (*i.e.,* fish) of the immediate area due to the temporary loss of this foraging habitat is also possible. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity.

In-water Construction Effects on Potential Prey (Fish)—Construction activities would produce continuous (*i.e.,* vibratory pile driving and removal) and pulsed (*i.e.,* impact driving, DTH) sounds. Fish react to sounds that are especially strong and/or intermittent low-frequency sounds. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution (summarized in Popper and Hastings 2009). Hastings and Popper (2005) reviewed several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented physical and behavioral effects of pile driving on fish, although several are based on studies in support of large, multiyear bridge construction projects (*e.g.,* Scholik and Yan 2001, 2002; Popper and Hastings 2009). Sound pulses at received levels of 160 dB may cause subtle changes in fish behavior. SPLs of 180 dB may cause noticeable changes in behavior (Pearson *et al.* 1992; Skalski *et al.* 1992). SPLs of sufficient strength have been known to cause injury to fish and fish mortality (summarized in Popper *et al.* 2014).

The most likely impact to fish from pile driving activities at the project area would be temporary behavioral avoidance of the area. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. In general, impacts to marine mammal prey species are expected to be minor and temporary.

In summary, given the relatively small areas being affected, pile driving activities associated with the proposed action are not likely to have a permanent, adverse effect on any fish habitat, or populations of fish species. Thus, we conclude that impacts of the specified activity are not likely to have more than short-term adverse effects on any prey habitat or populations of prey species. Further, any impacts to marine mammal habitat are not expected to result in significant or long-term consequences for individual marine mammals, or to contribute to adverse impacts on their populations.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of small numbers and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would primarily be by Level B harassment, as use of acoustic sources (*i.e.,* impact driving, vibratory driving and removal, DTH drilling) has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result, primarily for high frequency cetacean species and phocid pinnipeds because predicted auditory injury zones are larger than for low-frequency and mid-frequency species. The proposed mitigation and monitoring measures are expected to minimize the severity of such taking to the extent practicable.

As described previously, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the proposed take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B

harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.* 2007, Ellison *et al.* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 micropascal (μPa) root mean square (rms) for continuous (*e.g.,* vibratory pile-driving) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* impact pile driving) or intermittent (*e.g.,* scientific sonar) sources.

CTJV's proposed activity includes the use of continuous (vibratory pile driving/removal) and impulsive (impact pile driving; DTH hammer) sources and, therefore, the 120 and 160 dB re 1 μPa (rms) are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (NMFS 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). CTJV's proposed activity includes the use of impulsive (impact pile driving; DTH drilling) and non-impulsive (vibratory pile driving) sources.

These thresholds are provided in the Table 5 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 5—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing Group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB.	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB.	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB.	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB.	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB.	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa^{2}s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (i.e., varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the proposed project. Pile driving generates underwater noise that can potentially result in disturbance to marine mammals in the project area. The maximum (underwater) area ensonified is determined by the topography of the Bay including shorelines to the west south and north as well as by hard structures such as portal islands.

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B * Log_{10} (R_1/R_2),$$

Where:

TL = transmission loss in dB

B = transmission loss coefficient; for practical spreading equals 15

R_1 = the distance of the modeled SPL from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20*log[range]). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting

in a reduction of 3 dB in sound level for each doubling of distance from the source (10*log[range]). A practical spreading value of fifteen is often used under conditions, such as the PTST project site where water generally increases with depth as the receiver moves away from pile driving locations, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. Practical spreading loss is assumed here.

The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. In order to calculate distances to the Level A harassment and Level B harassment thresholds for the 36-inch steel piles proposed in this project, CTJV used acoustic monitoring data from other locations as described in Caltrans 2015 for impact and vibratory driving. CTJV also conducted their own sound source verification testing on 42-inch steel casings as described below to determine source levels associated with DTH drilling. NMFS used vibratory driving of 36-in steel pile source levels for vibratory driving of 42-inch casings source levels. CTJV has proposed to employ bubble curtains during impact driving of 36-inch steel piles and, therefore, reduced the source level by 7 dB (a conservative estimate based on several studies including Austin *et al.* 2016).

Source levels for drilling with a DTH hammer were field verified at the PTST project site by JASCO Applied Sciences in July 2019 (Denes, 2019). Underwater sound levels were measured during drilling with a DTH hammer at five pile locations—3 without bubble curtain attenuation and 2 with bubble curtain attenuation. The average SPL value at 10 m for the DTH location without a bubble curtain was 180 dB re 1μPa, while the average SEL and PK levels were 164 dB re 1μPa2·s and 190 dB re 1μPa, respectively. These values were greater than DTH testing done at another location in Alaska (Denes *et al.* 2016). The dominant signal characteristic was found to be impulsive rather than continuous. Southall *et al.* (2007) suggested that impulsive sounds can be distinguished from non-impulsive sounds by comparing the SPL of a 0.035 s window that includes the pulse and with a 1 s window that may include multiple pulses. If the SPL of the 0.035 s window is 3 dB or more greater than the 1 s window, then the signal should be considered impulsive. Denes (2019) observed that at the PTST site, the SPL of the 0.035 s pulse is 5 dB higher than the SPL of the 1 s sample, so the DTH source is classified here as impulsive. Source levels associated with DTH drilling of 42-inch steel casings were assumed to be the same as recorded for installation of 36-in steel pipe by DTH.

CTJV utilized in-water measurements generated by the Greenbusch Group (2018) from the WSDOT Seattle Pier 62 project (83 FR 39709) to establish proxy sound source levels for vibratory installation and removal of 14-inch timber piles. NMFS reviewed the report by the Greenbusch Group (2018) and determined that the findings were derived by pooling together all steel pile and timber pile at various distance measurements data together. The data was not normalized to the standard 10 m distance. NMFS analyzed source measurements at different distances for all 63 individual timber piles that were removed and normalized the values to 10 m. The results showed that the median is 152 dB SPLrms. This value was used as the source level for vibratory removal of 14-inch timber piles. Source levels for impact driving of 12-in timber piles were from the Ballena Bay Marina project in Alameda, CA as described in Caltrans 2015. Sound source levels used to calculate take are shown in Table 6.

TABLE 6—THE SOUND SOURCE LEVELS (dB PEAK, dB RMS, AND dB sSEL) BY HAMMER TYPE

Type of pile	Hammer type	Estimated peak noise level (dB peak)	Estimated pressure level (dB RMS)	Estimated single strike sound exposure level (dB sSEL)	Relevant piles at the PTST project	Pile function
36-inch Steel Pipe	Impact [a]	210	193	183	Plumb	Omega Trestle, Temporary Dock, Berm Wall West, and Berm Wall East.
	Impact with Bubble Curtain [b].	203	186	176	Plumb	Berm Wall West, Berm Wall East, and Temporary Dock.
	DTH—Impulsive [d]	190	180	164	Plumb	Omega Trestle, Berm Wall West, and Berm Wall East.
	Vibratory [a]	NA	170	170	Pipe Piles	Mooring Piles and Templates.
12-inch Timber Pile	Vibratory [c]	NA	152	152	Plumb	Mooring Dolphins.
	Impact [a]	177	165	157	Plumb	Mooring Dolphins.
42-inch Steel Casing	DTH—Impulsive [d]	190	180	164	Steel Casing	Temporary Dock.
	Vibratory [a]	NA	170	170	Pipe Piles	Temporary Dock.

Note: sSEL = Single Strike Exposure Level; dB = decibel; N/A = not applicable.
[a] Caltrans 2015.
[b] 7 dB reduction was assumed for use an encased bubble curtain (Austin *et al.* 2016).
[c] Greenbusch Group 2018.
[d] Denes *et al.* 2019.

CTJV used NMFS' Optional User Spreadsheet, available at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance,* to input project-specific parameters and calculate the isopleths for the Level A harassment zones for impact and vibratory pile driving. When the NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which may result in some degree of overestimate of Level A harassment take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary source pile driving, the NMFS User Spreadsheet predicts the distance at

which, if a marine mammal remained at that distance the whole duration of the activity, it would incur PTS.

Table 7 provides the sound source values and input used in the User Spreadsheet to calculate harassment isopleths for each source type while Table 8 shows distances to Level A harassment isopleths. Note that the isopleths calculated using the proposed number of piles driven per day is highly conservative. PTS is based on accumulated exposure over time. Therefore, an individual animal would have to be within the calculated PTS zones when all of the piles of a single type and driving method are being actively installed throughout an entire day. The marine mammals proposed for authorization are highly mobile. It is unlikely that an animal would remain within the PTS zone during the installation of, for example, 10 piles over an 8-hour period. NMFS opted to reduce the number of piles driven per day by approximately 50 percent in order to derive more realistic PTS isopleths. In cases where the number of proposed piles per day was an odd number, NMFS used the next largest whole number that was greater than 50 percent. These are shown in Table 7 in the row with the heading ''Piles/day to calculate PTS.'' Table 8 contains calculated distances to PTS isopleths and Table 9 depicts distances to Level B harassment isopleths.

TABLE 7—USER SPREADSHEET INPUT PARAMETERS USED FOR CALCULATING HARASSMENT ISOPLETHS

Model parameter	12-in timber		36-in steel				42-in steel casing		
	Vibratory	Impact	Vibratory	Impact	Impact—with bubble	DTH	Vibratory	DTH	DTH—simult.
Spreadsheet Tab Used	* A.1	** E.1	A.1	E.1	E.1	E.1	A.1	E.1	E.1
Weighting Factor (kHz)	2.5	2	2.5	2.0	2.0	2.0	2.5	2.0	2.0
RMS (dB)	152	165	170	193	186	180	170	180	180
Peak/SEL (dB)	na	177/157	na	210/183	203/176	190/164	na	190/164	190/164
Proposed Piles/day	10	10	10	7	10	3	10	3	6
Piles/day to calculate PTS	5	5	5	4	5	2	5	2	3
Duration to drive pile (minutes)	30	na	12	na	na	na	12	na	na
Propagation	15	15	15	15	15	15	15	15	15
Distance from source (meters)	10	10	10	10	10	10	10	10	10
Strikes per pile	na	1000	na	1000	1000	25200	na	25200	50400

* A.1) Vibratory Pile driving.
** E.1) Impact Pile Driving.

TABLE 8—RADIAL DISTANCE TO PTS ISOPLETHS (METERS)

Scenario		Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Pile location
Driving type	Pile type	Distance from islands 1 & 2	Distance from islands 1 & 2	Distance from islands 1 & 2	Distance from islands 1 & 2	
Impact	12-in. Timber	54	1.9	65	2	Mooring Dolphins.
	36-in. Steel	2,516	90	2,997	1,347	Omega Trestle, Temporary Dock, Berm Wall West, and Berm Wall East.
Impact with Bubble Curtain.	36-in. Steel	997	36	1,188	534	Berm Wall West, Berm Wall East, and Temporary Dock.
DTH—Impulsive	42-in. Steel	737	26	878	395	Casing for Temporary Dock.
	36-in. Steel	737	26	878	395	Omega Trestle, Temporary Dock, Berm Wall West, and Berm Wall East.
DTH Simultaneous.	42-in. Steel	1,534	55	1,827	821	Omega Trestle, Temporary Dock, Berm Wall West, and Berm Wall East.
DTH & Impact Hammer with bubble curtain: Simultaneous at the same island.	36-and 42-in. Steel *.	1,734	62	2,066	929	
DTH at PI 1 and Impact with Bubble Curtain Hammer at PI 2.	36-and 42-in. Steel.	737 (Island 1) 997 (Island 2)	26 (Island 1) 36 (Island 2)	878 (Island 1) 1,188 (Island 2)	395 (Island 1) 534 (Island 2)	
Continuous (Vibratory).	12-in. Timber	3	0.3	5	2	Mooring Dolphins.
	36-in. Steel	27	2	40	17	Mooring Piles and Templates.
	42-in. Steel	* 27	* 2	* 40	* 17	Casing for Temporary Dock.

* Activity will not occur on Portal Island 2.

TABLE 9—RADIAL DISTANCE (METERS) TO LEVEL B HARASSMENT MONITORING ISOPLETHS

Driving method	Pile type	Distance from island 1 & 2	Pile location
Impact	12-in. Timber	22	Mooring Dolphins.
	36-in. Steel	1,555	Omega Trestle, Temporary Dock, Berm Wall West, and Berm Wall East.
Impact with Bubble Curtain.	36-in. Steel	541	Berm Wall West, Berm Wall East, and Temporary Dock.
DTH—Impulsive	42-in. Steel	*215	Casing for Temporary Dock.
	36-in. Steel	215	Omega Trestle, Temporary Dock, Berm Wall West, and Berm Wall East.
Continuous (Vibratory)	12-in. mooring	1,354	Mooring Dolphins.
	36-in. Steel	21,544	Mooring Piles and Templates.
	42-in. Steel	*21,544	Casing for Temporary Dock.

*Activity will not occur on Portal Island 2.

Marine Mammal Occurrence and Take Calculation and Estimation

In this section we provide the information about the presence, density, or group dynamics of marine mammals and describe how it is brought together with the information above to produce a quantitative take estimate. When available, peer-reviewed scientific publications were used to estimate marine mammal abundance in the project area. In some cases population estimates, densities, and other quantitative information are lacking. Local observational data and estimated group size were utilized where applicable.

Humpback Whale

Humpback whales are relatively rare in the Chesapeake Bay and density data for this species within the project vicinity were not available nor able to be calculated. Populations in the mid-Atlantic have been estimated for humpback whales off the coast of New Jersey with a density of 0.000130 per square kilometer (Whitt *et al.* 2015). Habitat-based density models produced by the Duke University Marine Geospatial Ecology Laboratory (Roberts *et al.* 2016) represent the best available information regarding marine mammal densities offshore near the mouth of the Chesapeake Bay. At the closest point to the PTST project area, humpback densities ranged from a high of 0.107/100 km^2 in March to 0.00010/100 km^2 in August. Furthermore, CTJV conducted marine mammal monitoring during SSV testing for 5 days in July 2019. During that time there were no sightings or takes of humpback whales.

Because humpback whale occurrence is low as demonstrated above, CTJV and NMFS estimated that there will be a single humpback sighting every two months for the duration of in-water pile driving activities. Using an average group size of 2 animals, pile driving activities over a 10-month period would result in 10 takes of humpback whale by Level B harassment. No takes by Level A harassment are expected or proposed.

Bottlenose Dolphin

Expected bottlenose dolphin take was estimated using a 2016 report on the occurrence, distribution, and density of marine mammals near Naval Station Norfolk and Virginia Beach, Virginia (Engelhaupt *et al.* 2016). Three years of dolphin survey data were collected from either in-shore or open ocean transects. In-shore transects occurred off the coast of Virginia Beach in the Atlantic Ocean as well as inside the Bay to the southwest of the proposed project area. The previously issued IHA (83 FR 36522; July 30, 2018) used the same seasonal dolphin densities provided by Engelhaupt *et al.* (2016) to calculate take.

CTJV used data from Engelhaupt *et al.* (2016) but employed a different methodology to estimate take for this IHA. Dolphin sightings are not uniformly distributed along the survey area. There were more sightings along the Atlantic coastal ocean and fewer along the shoreline within the Bay. It is likely that bottlenose dolphins do not use the habitat uniformly, but rather selectively based on heterogeneity in available habitat, dietary items and protection with some individuals preferring ocean and others estuary (Ballance, 1992; Gannon and Waples 2004). Although dolphins have the ability to move between these habitat types, Gannon and Waples (2004) suggest individuals prefer one habitat over the other based on gut contents of dietary items.

Therefore, a subset of survey data from Engelhaupt *et al.* (2016) was used to determine seasonal dolphin densities in the Bay near the project area. A spatially refined approach was employed by plotting dolphin sightings within 12 km of the project location and then determining densities following methodology outlined in Engelhaupt *et al.* (2016) and Miller *et al.* (2019) using the package DISTANCE in R statistical software. The distance of 12 km was selected for estimating dolphin densities because uncertainty increases in extrapolating those data out further from the geographical location of the survey. Additionally, most of the sound generated by the proposed project will be directed into the Bay where dolphin densities are less compared to coastal ocean regions. Therefore, a 12 km radius should provide more accurate density estimates near the proposed project area by excluding higher density data from the coastal ocean areas.

Transect distance and areas were determined by using Image J software (NIH Freeware) to trace individual transects within the calculated Level B harassment zones. The entire length of the transects was also calculated using Image J to determine the viability of this approach where the average transect zig-zag from Image J was 3.6 km compared to the methods in the report of a 3.7 km transect. Dolphin sightings were truncated at 0.32 km from the transect line based on the probability of accurate abundance estimations following the approach from Engelhaupt *et al.* (2016). Density estimates were stratified based on seasons (as defined by Engelhaupt *et al.* 2016) where there would be sufficient data to run the model, as monthly density estimates did not have enough data points. Seasonal densities are below in Table 10 and Level B harassment zone areas are shown in Table 11.

TABLE 10—BOTTLENOSE DOLPHIN DENSITIES (INDIVIDUAL/KM^2) FROM INSHORE AREAS OF VIRGINIA

Season	Density within 12 km of project area
Spring	0.6
Summer	0.62
Fall	1.17
Winter	0.26

TABLE 11—IN-WATER AREA (KM²) USED FOR CALCULATING DOLPHIN TAKES PER CONSTRUCTION COMPONENTS PER HAMMER TYPE

Construction component	Impact hammer	Impact with bubble curtain	Vibratory hammer	Impact + DTH hammers	DTH + DTH hammers
Mooring Cluster	0.003	0.003	4.16	.....	.....
Temporary Dock	5.55	0.63	830	.....	0.25
Omega Trestle and West O-pile wall	8.55	8.55	830	1.72	0.49
East O-Pile Walls	.....	.....	.....	1.43	.....

Densities from Table 10 and harassment zone areas from Table 11 were used to calculate the monthly takes based on the number of pile driving days. The number of dolphin takes per construction component per pile driving method was then summed for each month (Table 12). NMFS proposes to authorize 10,109 incidents of take for bottlenose dolphin by Level B harassment as shown in Table 12 and has split out the three dolphin stocks as shown in Table 13. There is insufficient information to apportion the takes precisely to the three stocks present in the area. Given that most of the NNCES stock are found in the Pamlico Sound estuarine system, NMFS will assume that no more than 200 of the proposed takes will be from this stock. A subset of these 200 takes would likely be comprised of Bay resident dolphins, although the number is unknown. Since members of the northern migratory coastal and southern migratory coastal stocks are thought to occur in or near the Bay in greater numbers, we will conservatively assume that no more than half of the remaining animals (9,909) will accrue to either of these stocks.

During 5 days of SSV testing conducted by CTJV in July 2019, dolphins were recorded every day with a minimum daily sighting rate of 8 (July 22, 2019 and maximum daily rate of 40 animals (July 23, 2019). There were 116 total sightings of which 50 were recorded as takes by Level B harassment. For comparative purposes, the average daily dolphin take rate estimated for the proposed IHA is 54 animals while the maximum sightings per day was 40 animals as noted above. Given this information, NMFS is confident that the proposed dolphin take estimate is reasonable, if somewhat conservative.

TABLE 12—ESTIMATED BOTTLENOSE DOLPHIN TAKE BY MONTH AND DRIVING ACTIVITY

Month	November	December	January	February	March	April	May	June	July	August	September	October	
Dolphin Density (n/km²)	1.17	0.26	0.26	0.26	0.6	0.6	0.6	0.62	0.62	0.62	1.17	1.17	
Mooring Cluster													
Vibratory—Timber Piles	7	2	0	0	0	0	0	0	0	0	0	0	
Impact—Timber Piles	3	1	0	0	0	0	0	0	0	0	0	0	
Dolphin Takes	34	2	0	0	0	0	0	0	0	0	0	0	36
Temporary Dock													
Impact—Steel Pile	0	1	1	1	1	1	1	0	0	0	0	0	
Impact with Bubble Curtain—Steel Pile	0	2	2	2	2	2	2	0	0	0	0	0	
Vibratory—Steel Pile	0	4	4	4	4	4	4	0	0	0	0	0	
Two DTH—Steel Pile	0	3	3	3	3	3	3	0	0	0	0	0	
Dolphin Takes	0	865	649	649	1,499	1,499	1,499	0	0	0	0	0	6,660
Omega Trestle/West O-pile Walls/Mooring Piles & Templates													
Impact—Steel Pile	2	2	2	2	4	3	2	0	0	0	0	0	
Vibratory—Steel Pile	1	1	0	0	0	0	1	1	1	1	0	0	
Two DTH—Steel Pile	2	2	2	2	6	4	4	0	0	0	0	0	
DTH+ Impact—Steel Pile	3	3	3	3	8	6	4	0	0	0	0	0	
Dolphin Takes	998	222	6	6	31	23	514	515	515	515	0	0	3,343
Omega Trestle/East O-Pile Walls													
Impact—Steel Pile	0	2	2	2	2	4	2	2	2	2	0	0	
DTH+ Impact—Steel Pile	0	1	1	1	1	2	1	1	1	1	0	0	
Two DTH—Steel Pile	0	1	1	1	1	2	1	1	1	1	0	0	
Dolphin Takes	0	4	4	4	8	16	8	9	9	9	0	0	70
Total No. of Pile Driving Days per Month	18	25	21	21	32	31	25	5	5	5	0	0	
Total Level B harassment Takes	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	10,109

Harbor Porpoise

Given that harbor porpoises are uncommon in the project area, this exposure analysis assumes that there is a porpoise sighting once during every two months of operations which would equate to five sightings over ten months. Assuming an average group size of two (Hansen *et al.* 2018; Elliser *et al.* 2018) over 10 months of in-water work results in a total of 10 estimated takes of porpoises. Harbor porpoises are members of the high-frequency hearing group which have Level A harassment isopleths as large as 2,997 m during impact installation of four piles per day. Given the relatively large Level A harassment zones during impact driving, NMFS assumed in the previous IHA (83 FR 36522; July 30, 2018) that 40 percent of estimated porpoises takes would be by Level A harassment and authorized 4 takes of porpoises by Level A and 6 takes by Level B harassment. CTJV conducted marine mammal monitoring during SSV testing at the

project location for 5 days in July 2019. During that time there were no sightings or takes of porpoises. However, NMFS is conservatively proposing to authorize the same number of porpoise takes for Level A and Level B harassment for this IHA.

Harbor Seal

The number of harbor seals expected to be present in the PTST project area was estimated using survey data for in-water and hauled out seals collected by the United States Navy at the portal islands from November 2014 through April 2018 (Rees *et al.,* 2016; Jones *et al.* 2018). The survey data revealed a daily maximum of 45 animals during this period which occurred in January, 2018. The maximum number of animals observed per day (45) was multiplied by the total number of proposed driving days between November and May (173) since (seals are not present in the area from June through October). Based on this calculation NMFS proposes to authorize 7,785 incidental takes of harbor seal. Note that the CTJV monitoring report did not record any seal observations over 5 days of SSV testing, but this would be expected as seals are not present during July.

The largest Level A harassment isopleth for phocid species is approximately 1,347 meters which would occur during impact driving of 36-inch steel piles. The smallest Level A harassment isopleths are 2 m and would occur during impact and vibratory driving of 12-inch timber piles. NMFS has prescribed a shutdown zone for harbor seals of 15 meters as a mitigation measure since seals are common in the project area and are known to approach the shoreline. A larger shutdown zone would likely result in multiple shutdowns and impede the project schedule. From the previously issued IHA, NMFS assumed that 40 percent of the exposed seals will occur within the Level A harassment zone specified for a given scenario and the remaining affected seals would result in Level B harassment takes. Therefore, NMFS proposes to authorize 3,114 takes by Level A harassment and 4,671 takes by Level B harassment.

Gray Seal

The number of gray seals expected to be present at the PTST project area was estimated using survey data collected by the U.S. Navy at the portal islands from 2014 through 2018 (Rees *et al.* 2016; Jones *et al.* 2018). One seal was observed in February of 2015 and one seal was recorded in February of 2016 while no seals were observed at any time during 2017 or 2018. Since seals are anticipated to occur only during the month of February at a rate of 1 animal per day for the anticipated 21 in-water work days during that month, NMFS proposes to authorized 21 incidental takes of gray seal. The Level A isopleths for gray seals are identical to those for harbor seals. With a shutdown zone of 15 meters, previously, NMFS previously estimated 40 of the total take (not 40 percent of the affected species or stock) would occur in the Level A harassment zone specified for a given scenario. Therefore, NMFS proposes to authorize 8 takes by Level A harassment and 13 takes by Level B harassment.

Table 13 shows that estimated percentage of stock proposed for take by both Level A and Level B harassment.

TABLE 13—ESTIMATED TAKE BY LEVEL A AND LEVEL B HARASSMENT

Species	Stock	Level A takes	Level B takes
Humpback whale	Gulf of Maine		10
Harbor porpoise	Gulf of Maine/Bay of Fundy	4	6
Bottlenose dolphin	WNA Coastal, Northern Migratory		4,955
	WNA Coastal, Southern Migratory		4,954
	NNCES		200
Harbor seal	Western North Atlantic	3,114	4,671
Gray seal	Western North Atlantic	8	13

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

In addition to the measures described later in this section, CTJV will employ the following standard mitigation measures:

- Conduct briefings between construction supervisors and crews and the marine mammal monitoring team prior to the start of all pile driving activity, and when new personnel join the work, to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures;
- For in-water heavy machinery work other than pile driving (*e.g.,* standard barges, etc.), if a marine mammal comes

within 10 m, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include the following activities: (1) Movement of the barge to the pile location; or (2) positioning of the pile on the substrate via a crane (*i.e.,* stabbing the pile);

• Work may only occur during daylight hours, when visual monitoring of marine mammals can be conducted;

• For those marine mammals for which Level B harassment take has not been requested, in-water pile driving will shut down immediately if such species are observed within or entering the monitoring zone (*i.e.,* Level B harassment zone); and

• If take reaches the authorized limit for an authorized species, pile installation will be stopped as these species approach the Level B harassment zone to avoid additional take.

The following measures would apply to CTJV's mitigation requirements:

Establishment of Shutdown Zone—For all pile driving and drilling activities, CTJV would establish a shutdown zone. The purpose of a shutdown zone is generally to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). These shutdown zones would be used to prevent incidental Level A harassment from impact pile driving for bottlenose dolphins and humpback whales. Shutdown zones for species proposed for authorization are as follows:

• 100 meters for harbor porpoise and bottlenose dolphin.

• 15 meters for harbor seal and gray seal.

• For humpback whale, shutdown distances are shown in Table 14 under low-frequency cetaceans and are dependent on activity type.

Establishment of Monitoring Zones for Level A and Level B Harassment—CTJV would establish monitoring zones based on calculated Level A harassment isopleths associated with specific pile driving activities and scenarios. These are areas beyond the established shutdown zone in which animals could be exposed to sound levels that could result in Level A harassment in the form of PTS. CTJV would also establish and monitor Level B harassment zones which are areas where SPLs are equal to or exceed the 160 dB rms threshold for impact driving and DTH drilling and 120 dB rms threshold during vibratory driving. Monitoring zones provide utility for observing by establishing monitoring protocols for areas adjacent to the shutdown zones. The monitoring zones enable observers to be aware of and communicate the presence of marine mammals in the project area outside the shutdown zone and thus prepare for a potential cease of activity should the animal enter the shutdown zone. The proposed Level A and Level B harassment monitoring zones are described in Table 14. Since some of the Level B harassment monitoring zones cannot be effectively observed in their entirety, Level B harassment exposures will be recorded and extrapolated based upon the number of observed take and the percentage of the Level B harassment zone that was not visible.

TABLE 14—LEVEL A AND LEVEL B HARASSMENT MONITORING ZONES DURING PROJECT ACTIVITIES (METERS)

Scenario		Level A harassment zones				Level B monitoring zones
Driving type	Pile type	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Island 1 & 2
		Island 1 & 2	Island 1 & 2 *	Island 1 & 2	Island 1 & 2	
Impact	12-in. Timber	55				25
	36-in. Steel	2,520		3,000	1,350	1,585
Impact with Bubble Curtain	36-in. Steel	1,000		1,190	540	545
DTH—Impulsive	42-in. Steel	740		880	395	220
DTH Simultaneous at same island	42-in. Steel	1,535		1,830	825	220
DTH & Impact Hammer with bubble curtain: Simultaneous at the same island.	36- and 42-in. Steel.	1,735		2,070	930	545
DTH at PI 1. And Impact with Bubble Curtain Hammer at PI 2.	36- and 42-in. Steel.	740		880	395	220 from PI 1 545 from PI 2
Continuous (Vibratory)	12-in. Timber					1,360
	36-in. Steel	30			20	21,545
	42-in.** Steel	30			20	21,545

* indicates that shutdown zone is larger than calculated harassment zone.
** Activity only proposed at Portal Island 1 as part of project pile driving plan.

Soft Start—The use of soft-start procedures are believed to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors would be required to provide an initial set of strikes from the hammer at reduced energy, with each strike followed by a 30-second waiting period. This procedure would be conducted a total of three times before impact pile driving begins. Soft start would be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer. Soft start is not required during vibratory or DTH pile driving activities.

Use of bubble curtains—Use of air bubble curtain system would be implemented by CTJV during impact driving of 36-in steel piles except in water less than 10 ft in depth. The use of this sound attenuation device will reduce SPLs and the size of the zones of influence for Level A harassment and Level B harassment. Bubble curtains would meet the following requirements:

• The bubble curtain must distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column.

• The lowest bubble ring shall be in contact with the mudline and/or rock bottom for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent mudline and/or rock bottom contact. No parts of the ring or other objects shall

prevent full mudline and/or rock bottom contact.

• The bubble curtain shall be operated such that there is proper (equal) balancing of air flow to all bubblers.

• The applicant shall require that construction contractors train personnel in the proper balancing of air flow to the bubblers and corrections to the attenuation device to meet the performance standards. This shall occur prior to the initiation of pile driving activities.

Pre-Activity Monitoring—Prior to the start of daily in-water construction activity, or whenever a break in pile driving of 30 minutes or longer occurs, protected species observers (PSOs) will observe the shutdown and monitoring zones for a period of 30 minutes. The shutdown zone will be cleared when a marine mammal has not been observed within the zone for that 30-minute period. If a marine mammal is observed within the shutdown zone, a soft-start cannot proceed until the animal has left the zone or has not been observed for 15 minutes. If the Level B harassment zone has been observed for 30 minutes and non-permitted species are not present within the zone, soft start procedures can commence and work can continue even if visibility becomes impaired within the Level B harassment monitoring zone. When a marine mammal permitted for take by Level B harassment is present in the Level B harassment zone, activities may begin and Level B harassment take will be recorded. If work ceases for more than 30 minutes, the pre-activity monitoring of both the Level B harassment and shutdown zone will commence again.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

• Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density).

• Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).

• Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.

• How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.

• Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat).

• Mitigation and monitoring effectiveness.

Marine Mammal Visual Monitoring

Monitoring shall be conducted by NMFS-approved observers. Trained observers shall be placed from the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator. Observer training must be provided prior to project start, and shall include instruction on species identification (sufficient to distinguish the species in the project area), description and categorization of observed behaviors and interpretation of behaviors that may be construed as being reactions to the specified activity, proper completion of data forms, and other basic components of biological monitoring, including tracking of observed animals or groups of animals such that repeat sound exposures may be attributed to individuals (to the extent possible).

Monitoring would be conducted 30 minutes before, during, and 30 minutes after pile driving activities. In addition, observers shall record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven. Pile driving activities include the time to install a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

CTJV would be required to station PSOs at locations offering the best available views of the monitoring zones. At least one PSO must be located in close proximity to each pile driving rig during active operation of single or multiple, concurrent driving devices. A minimum of one additional PSO is required at each active driving rig if the Level B harassment zone and shutdown zones cannot reasonably be observed by one PSO.

PSOs would scan the waters using binoculars, and/or spotting scopes, and would use a handheld GPS or range-finder device to verify the distance to each sighting from the project site. All PSOs would be trained in marine mammal identification and behaviors and are required to have no other project-related tasks while conducting monitoring. In addition, monitoring will be conducted by qualified observers, who will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. CTJV would adhere to the following PSO qualifications:

(i) Independent observers (*i.e.,* not construction personnel) are required.

(ii) At least one observer must have prior experience working as an observer.

(iii) Other observers may substitute education (degree in biological science or related field) or training for experience.

(iv) Where a team of three or more observers are required, one observer shall be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer.

(v) CTJV shall submit observer CVs for approval by NMFS.

Additional standard observer qualifications include:

• Ability to conduct field observations and collect data according to assigned protocols;

• Experience or training in the field identification of marine mammals,

including the identification of behaviors;

• Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

• Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and

• Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

Observers will be required to use approved data forms. Among other pieces of information, CTJV will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, CTJV will attempt to distinguish between the number of individual animals taken and the number of incidences of take. We require that, at a minimum, the following information be collected on the sighting forms:

• Date and time that monitored activity begins or ends;

• Construction activities occurring during each observation period;

• Weather parameters (*e.g.,* percent cover, visibility);

• Water conditions (*e.g.,* sea state, tide state);

• Species, numbers, and, if possible, sex and age class of marine mammals;

• Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity, and if possible, the correlation to SPLs;

• Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;

• Description of implementation of mitigation measures *(e.g.,* shutdown or delay);

• Locations of all marine mammal observations; and

• Other human activity in the area.

Reporting

A draft report would be submitted to NMFS within 90 days of the completion of marine mammal monitoring, or 60 days prior to the requested date of issuance of any future IHA for projects at the same location, whichever comes first. The report will include marine mammal observations pre-activity, during-activity, and post-activity during pile driving days (and associated PSO data sheets), and will also provide descriptions of any behavioral responses to construction activities by marine mammals and a complete description of all mitigation shutdowns and the results of those actions and an extrapolated total take estimate based on the number of marine mammals observed during the course of construction. A final report must be submitted within 30 days following resolution of comments on the draft report.

Reporting Injured or Dead Marine Mammals

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, CTJV shall report the incident to the Office of Protected Resources (OPR), NMFS and to the Greater Atlantic Region New England/Mid-Atlantic Regional Stranding Coordinator as soon as feasible. The report must include the following information:

• Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

• Species identification (if known) or description of the animal(s) involved;

• Condition of the animal(s) (including carcass condition if the animal is dead);

• Observed behaviors of the animal(s), if alive;

• If available, photographs or video footage of the animal(s); and

• General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Pile driving activities associated with the proposed PTST project, as outlined previously, have the potential to disturb or displace marine mammals. The specified activities may result in take, in the form of Level B harassment (behavioral disturbance) or Level A harassment (auditory injury), incidental to underwater sounds generated from pile driving. Potential takes could occur if individuals are present in the ensonified zone when pile driving occurs. Level A harassment is only anticipated for harbor porpoises, harbor seals, and gray seals.

No serious injury or mortality is anticipated given the nature of the activities and measures designed to minimize the possibility of injury to marine mammals. The potential for these outcomes is minimized through the construction method and the implementation of the planned mitigation measures. Specifically, vibratory driving, impact driving, and drilling with DTH hammers will be the primary methods of installation and pile removal will occur with a vibratory hammer. Impact pile driving produces short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks. When impact pile driving is used, implementation of bubble curtains, soft start and shutdown zones significantly reduces any possibility of injury. Given sufficient notice through use of soft starts (for impact driving), marine mammals are expected to move away from a sound source that is annoying prior to it becoming potentially injurious.

CTJV will use qualified PSOs stationed strategically to increase detectability of marine mammals, enabling a high rate of success in implementation of shutdowns to avoid injury for most species. PSOs will be stationed on a specific Portal Island

whenever pile driving operations are underway at that location. More than one PSO may be stationed on an island in order to provide a relatively clear view of the shutdown zone and monitoring zones. These factors will limit exposure of animals to noise levels that could result in injury.

CTJV's proposed pile driving activities are highly localized. Only a relatively small portion of the Chesapeake Bay may be affected. Localized noise exposures produced by project activities may cause short-term behavioral modifications in affected cetaceans and pinnipeds Moreover, the proposed mitigation and monitoring measures are expected to further reduce the likelihood of injury as well as reduce behavioral disturbances.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff 2006). Individual animals, even if taken multiple times, will most likely move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. The pile driving activities analyzed here are similar to, or less impactful than, numerous other construction activities conducted along both Atlantic and Pacific coasts, which have taken place with no known long-term adverse consequences from behavioral harassment. Furthermore, many projects similar to this one are also believed to result in multiple takes of individual animals without any documented long-term adverse effects. Level B harassment will be minimized through use of mitigation measures described herein and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring.

In addition to the expected effects resulting from authorized Level B harassment, we anticipate that small numbers of harbor porpoises, harbor seals and gray seals may sustain some limited Level A harassment in the form of auditory injury. However, animals that experience PTS would likely only receive slight PTS, *i.e.* minor degradation of hearing capabilities within regions of hearing that align most completely with the energy produced by pile driving (*i.e.,* the low-frequency region below 2 kHz), not severe hearing impairment or impairment in the regions of greatest hearing sensitivity. If hearing impairment occurs, it is most likely that the affected animal's threshold would increase by a few dBs, which is not likely to meaningfully affect its ability to forage and communicate with conspecifics. As described above, we expect that marine mammals would be likely to move away from a sound source that represents an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice through use of soft start.

The project is not expected to have significant adverse effects on marine mammal habitat. No important feeding and/or reproductive areas for marine mammals are known to be near the project area. Project activities would not permanently modify existing marine mammal habitat. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammal foraging opportunities in a limited portion of the foraging range. However, because of the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- Limited Level A harassment exposures (harbor porpoises, harbor seals, and gray seals) are anticipated to result only in slight PTS, within the lower frequencies associated with pile driving;
- The anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior that would not result in fitness impacts to individuals;
- The specified activity and associated ensonifed areas are very small relative to the overall habitat ranges of all species and does not include habitat areas of special significance (BIAs or ESA-designated critical habitat); and
- The presumed efficacy of the proposed mitigation measures in reducing the effects of the specified activity.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The proposed take of marine mammal stocks comprises less than 10.2 percent of the Western North Atlantic harbor seal stock abundance, and less than one percent of the other stocks, with the exception of bottlenose dolphin stocks. There are three bottlenose dolphin stocks that could occur in the project area. Therefore, the estimated 10,109 dolphin takes by Level B harassment would likely be split among the western North Atlantic northern migratory coastal stock, western North Atlantic southern migratory coastal stock, and NNCES stock. Based on the stocks' respective occurrence in the area, NMFS estimated that there would be 200 takes from the NNCES stock, with the remaining takes split evenly between the northern and southern migratory coastal stocks. Based on consideration of various factors described below, we have determined the numbers of individuals taken would comprise less than one-third of the best available population abundance estimate of either coastal migratory stock. Detailed descriptions of the stocks' ranges have been provided in *Description of Marine Mammals in the Area of Specified Activities.*

Both the northern migratory coastal and southern migratory coastal stocks have expansive ranges and they are the only dolphin stocks thought to make broad-scale, seasonal migrations in coastal waters of the western North Atlantic. Given the large ranges associated with these two stocks it is unlikely that large segments of either stock would approach the project area and enter into the Bay. The majority of both stocks are likely to be found widely dispersed across their respective habitat

ranges and unlikely to be concentrated in or near the Chesapeake Bay.

Furthermore, the Chesapeake Bay and nearby offshore waters represent the boundaries of the ranges of each of the two coastal stocks during migration. The northern migratory coastal stock is found during warm water months from coastal Virginia, including the Chesapeake Bay and Long Island, New York. The stock migrates south in late summer and fall. During cold water months dolphins may be found in coastal waters from Cape Lookout, North Carolina, to the North Carolina/Virginia. During January–March, the southern migratory coastal stock appears to move as far south as northern Florida. From April to June, the stock moves back north to North Carolina. During the warm water months of July–August, the stock is presumed to occupy coastal waters north of Cape Lookout, North Carolina, to Assateague, Virginia, including the Chesapeake Bay. There is likely some overlap between the northern and southern migratory stocks during spring and fall migrations, but the extent of overlap is unknown.

The Bay and waters offshore of the mouth are located on the periphery of the migratory ranges of both coastal stocks (although during different seasons). Additionally, each of the migratory coastal stocks are likely to be located in the vicinity of the Bay for relatively short timeframes. Given the limited number of animals from each migratory coastal stock likely to be found at the seasonal migratory boundaries of their respective ranges, in combination with the short time periods (~two months) animals might remain at these boundaries, it is reasonable to assume that takes are likely to occur only within some small portion of either of the migratory coastal stocks.

Both migratory coastal stocks likely overlap with the NNCES stock at various times during their seasonal migrations. The NNCES stock is defined as animals that primarily occupy waters of the Pamlico Sound estuarine system (which also includes Core, Roanoke, and Albemarle sounds, and the Neuse River) during warm water months (July–August). Members of this stock also use coastal waters (≤1 km from shore) of North Carolina from Beaufort north to Virginia Beach, Virginia, including the lower Chesapeake Bay. Comparison of dolphin photo-identification data confirmed that limited numbers of individual dolphins observed in Roanoke Sound have also been sighted in the Chesapeake Bay (Young 2018). Like the migratory coastal dolphin stocks, the NNCES stock covers a large range. The spatial extent of most small and resident bottlenose dolphin populations is on the order of 500 km^2, while the NNCES stock occupies over 8,000 km^2 (LeBrecque *et al.* 2015). Given this large range, it is again unlikely that a preponderance of animals from the NNCES stock would depart the North Carolina estuarine system and travel to the northern extent of the stock's range. However, recent evidence suggests that there is like a small resident community of NNCES dolphins that inhabits the Chesapeake Bay year-round (Patterson, Pers. Comm*).*

Many of the dolphin observations in the Bay are likely repeated sightings of the same individuals. The Potomac-Chesapeake Dolphin Project has observed over 1,200 unique animals since observations began in 2015. Re-sightings of the same individual can be highly variable. Some dolphins are observed once per year, while others are highly regular with greater than 10 sightings per year (Mann, *pers. comm.*). Multiple sightings of the same individual would considerably reduce the number of individual animals that are taken by harassment. Furthermore, the existence of a resident dolphin population in the Bay would increase the percentage of dolphin takes that are actually re-sightings of the same individuals.

In summary and as described above, the following factors primarily support our preliminary determination regarding the incidental take of small numbers of a species or stock:

- The take of marine mammal stocks proposed for authorization comprises less than 9 percent of any stock abundance (with the exception of bottlenose dolphin stocks);
- Potential bottlenose dolphin takes in the project area are likely to be allocated among three distinct stocks;
- Bottlenose dolphin stocks in the project area have extensive ranges and it would be unlikely to find a high percentage of any one stock concentrated in a relatively small area such as the project area or the Bay;
- The Bay represents the migratory boundary for each of the specified dolphin stocks and it would be unlikely to find a high percentage of any stock concentrated at such boundaries; and
- Many of the takes would be repeats of the same animal and it is likely that a number of individual animals could be taken 10 or more times.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to the CTJV for conducting pile driving activities as part of the PTST project for a period of one year from the date of issuance, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.*

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this Notice of Proposed IHA for the proposed PTST project. We also request at this time comment on the potential renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent Renewal.

On a case-by-case basis, NMFS may issue a one-year IHA renewal with an additional 15 days for public comments when (1) another year of identical or nearly identical activities as described in the Specified Activities section of this notice is planned or (2) the activities as described in the Specified Activities section of this notice would

not be completed by the time the IHA expires and a Renewal would allow for completion of the activities beyond that described in the Dates and Duration section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to expiration of the current IHA.
- The request for renewal must include the following:

(1) An explanation that the activities to be conducted under the requested Renewal are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take because only a subset of the initially analyzed activities remain to be completed under the Renewal).

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

- Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: November 19, 2019.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–25471 Filed 11–22–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XV135]

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 67 Assessment Webinar I for Gulf of Mexico vermilion snapper.

SUMMARY: The SEDAR 67 stock assessment process for Gulf of Mexico vermilion snapper will consist of a series of data and assessment webinars. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 67 Assessment Webinar I will be held December 17, 2019, from 10 a.m. to 12 p.m., Eastern Time.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT** to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR Address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: *Julie.neer@safmc.net*.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the Assessment Webinar are as follows:

1. Using datasets and initial assessment analysis recommended from the data webinars, panelists will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions.

2. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: November 19, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–25427 Filed 11–22–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Technical Information Service

Proposed Information Collection; Comment Request; Limited Access Death Master File Subscriber Certification Form

AGENCY: National Technical Information Service, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information

collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before January 24, 2020.

ADDRESSES: Direct all written comments to John W. Hounsell, Program Manager, Office of Program Management, National Technical Information Service, Department of Commerce, 5301 Shawnee Road, Alexandria, VA 22312 (or at *PRAcomments@doc.gov*). All comments received are part of the public record. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to John W. Hounsell, at email: *jhounsell@ntis.gov* or telephone: 703–605–6184.

SUPPLEMENTARY INFORMATION:

I. Abstract

This notice informs the public that the National Technical Information Service (NTIS) is requesting the renewal of an information collection described in Section II for use in connection with the final rule entitled ''Certification Program for Access to the Death Master File.'' The final rule was published on June 1, 2016 and became effective on November 28, 2016. The information collection described in Section II, was approved and became effective on January 3, 2017.

II. Method of Collection

Title of Information Collection: ''Limited Access Death Master File Certification Form'' (Certification Form).

Description of the need for the information and the proposed use: NTIS issued a final rule establishing a program through which persons may become eligible to obtain access to Death Master File (DMF) information about an individual within three years of that individual's death (81 FR 34882, June 1, 2016). The final rule was promulgated under Section 203 of the Bipartisan Budget Act of 2013, Public Law 113–67 (Act). The Act prohibits the Secretary of Commerce (Secretary) from disclosing DMF information during the three-year period following an individual's death (Limited Access DMF), unless the person requesting the information has been certified to access the Limited Access DMF pursuant to certain criteria in a program that the Secretary establishes. The Secretary delegated the authority to carry out Section 203 to the Director of NTIS.

The final rule requires that a Person seeking access to the Limited Access Death Master File establish a legitimate fraud prevention interest or legitimate business purpose pursuant to a law, governmental rule, regulation, or fiduciary duty. The Certification Form collects information that NTIS will use to evaluate whether the respondent qualifies to receive the Limited Access Death Master File under the rule.

III. Data

OMB Control Number: 0692–0013.

Form Number(s): NTIS FM161.

Type of Review: Regular submission. Renewal of currently approved collection.

Affected Public: Members of the public seeking certification or renewal of certification for access to the Limited Access Death Master File under the final rule for the ''Certification Program for Access to the Death Master File.''

Estimated Number of Respondents: NTIS expects to receive approximately 250 applications and renewals for certification every year.

Estimated Time per Response: 2.5 hours.

Estimated Total Annual Burden Hours: 625 (250 × 2.5 hour = 625 hours).

Estimated Total Annual Cost to Public: NTIS expects to receive approximately 250 applications annually at a fee of $2,930 per application, for a total cost to the public of $732,500. In addition, NTIS expects that preparation of the application will require a senior administrative staff person 2.5 hours at a rate of $100/hour, for a total cost to the public of $62,500 (625 total burden hours × $100/hour = $62,500). NTIS estimates the total annual cost to the public to be $795,000 ($732,500 in fees + $62,500 in staff time = $795,000). The total annual cost reflects the cost to the Federal Government, which consists of the expenses associated with NTIS personnel reviewing and processing the Certification Application Forms.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the potential use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–25431 Filed 11–22–19; 8:45 am]

BILLING CODE 3510–04–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Secrecy and License to Export

ACTION: Notice of renewal of information collection; request for comment.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension of an existing information collection: 0651–0034 (Secrecy and License to Export).

DATES: Written comments must be submitted on or before January 24, 2020.

ADDRESSES: You may submit comments by any of the following methods:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0034 comment'' in the subject line of the message.
- *Federal Rulemaking Portal: http://www.regulations.gov.*
- *Mail:* Marcie Lovett, Records and Information Governance Branch, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–145.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–7728; or by email to *Raul.Tamayo@uspto.gov* with ''Paperwork'' in the subject line. Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

In the interest of national security, patent laws and rules place certain limitations on the disclosure of information contained in patents and patent applications and on the filing of applications for patents in foreign countries.

In particular, whenever the publication or disclosure of an invention by the publication of an application or by the granting of a patent is, in the opinion of the head of an interested Government agency, determined to be detrimental to national security, the Commissioner for Patents at the USPTO must issue a secrecy order and withhold the publication of a patent application and the grant of a patent for such period as the national interest requires. A patent will not be issued on the application, nor will the application be published, as long as the secrecy order is in effect. If a secrecy order is applied to an international application, the application will not be forwarded to the International Bureau as long as the secrecy order is in effect.

The Commissioner for Patents can issue three types of secrecy orders, each of a different scope. The first type, Secrecy Order and Permit for Foreign Filing in Certain Countries, is intended to permit the widest utilization of the technical data in the patent application while still controlling any publication or disclosure that would result in an unlawful exportation. The second type, the Secrecy Order and Permit for Disclosing Classified Information, is to treat classified technical data presented in a patent application in the same manner as any other classified material. The first and second types of secrecy orders involve the Department of Defense. The third type of secrecy order is used where the other types of orders do not apply, including orders issued by direction of agencies other than the Department of Defense.

Under the provision of 35 U.S.C. 181, a secrecy order remains in effect for a period of one year from its date of issuance. A secrecy order may be renewed for additional periods of not more than one year upon notice by a government agency that the national interest continues to require the order. USPTO notifies the applicant of the renewal.

This information collection covers information gathered in petitions for permits to allow disclosure, modification, or rescission of the secrecy order, or to obtain a general or group permit when the USPTO places a secrecy order on a patent application. In each of these circumstances, the petition is forwarded to the appropriate agency for decision. Also, the Commissioner for Patents at the USPTO may rescind any order upon notification by the heads of the departments and the chief officers of the requesting agencies that the disclosure of the invention is no longer deemed detrimental to the national security.

Unless expressly ordered otherwise, action on the application by the USPTO and prosecution by the applicant will proceed during the time an application is under secrecy order to one of the specific points identified at 37 CFR 5.3. For example, as set forth at 37 CFR 5.3(a), national applications under secrecy order that come to a final rejection must be appealed or otherwise prosecuted to avoid abandonment. Applicants must complete the appeals in such cases, but unless specifically indicated by the Commissioner for Patents at the USPTO, the appeals will not be set for hearing until the secrecy order is removed.

In addition, this collection covers information gathered with respect to foreign filing licenses. The filing of a patent application is considered a request for a foreign filing license. However, in some instances an applicant may need a license for filing a patent application in foreign countries prior to a filing in the USPTO or sooner than the anticipated licensing of a pending patent application.

For such circumstances, this collection covers petitions for a foreign filing license either with or without a corresponding United States application. In addition, this collection covers petitions to change the scope of a license and petitions for a retroactive license for instances when a patent application is filed through error in a foreign country without the appropriate filing license.

This collection includes the information needed by the USPTO to review the various types of petitions regarding secrecy orders and foreign filing licenses. This collection of information is required by 35 U.S.C. 181–188 and administered through 37 CFR 5.1–5.33.

II. Method of Collection

By mail, facsimile or hand carried to the USPTO.

III. Data

OMB Number: 0651–0034.

Form Number(s): There are no forms associated with this collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households; Businesses or other for-profits; not-for-profit institutions.

Estimated Number of Respondents: 4,434 responses per year. The USPTO estimates that approximately 20% (886.80) of these responses will be from small entities.

Estimated Time per Response: The USPTO estimates that it will take the public from 30 minutes (0.5 hours) to 4 hours to gather the necessary information, prepare the appropriate documents, and submit the information required for this collection.

Estimated Total Annual Respondent Burden Hours: 2,797.50 hours.

Estimated Total Annual Respondent Cost Burden: $1,225,305. The USPTO expects that the information in this collection will be prepared by intellectual property attorneys at an estimated rate of $438 per hour. The attorney rates are found in the 2017 Report of the Economic Survey of the America Intellectual Property Law Association (AIPLA). Using this hourly rate, the USPTO estimates that the respondent cost burden for this collection will be approximately $1,225,305 per year.

Number	Item	Estimated time for response (hours) (a)	Estimated annual responses (b)	Estimated annual burden hours (a) × (b)/60 = (c)	Rate ($/hr) (d)	Total cost burden (e) (c × d)
1	Petition for Rescission of Secrecy Order.	3.0	10	30	$438	$13,140
2	Petition to Disclose or Modification of Secrecy Order.	2.0	20	40	438	17,520
3	Petition for General and Group Permits	1.0	1	1	438	438

Number	Item	Estimated time for response (hours) (a)	Estimated annual responses (b)	Estimated annual burden hours (a) × (b)/60 = (c)	Rate ($/hr) (d)	Total cost burden (e) (c × d)
4	Petition for Expedited Handling of License (no corresponding application).	0.5	4,000	2,000	438	876,000
5	Petition for Expedited Handling of License (corresponding U.S. application).	0.5	250	125	438	54,750
6	Petition for Changing Scope of License	0.5	3	1.5	438	657
7	Petition for Retroactive License	4.0	150	600	438	262,800
Totals			4,434	2,797.50		1,225,305

Estimated Total Annual (Non-hour) Respondent Cost Burden: $788,286.60. There are no capital start-up, maintenance, or record keeping costs associated with this information collection. However, this collection does have annual (non-hour) costs in the form of filing fees for the foreign filing petitions and postage costs. No fees are associated with the secrecy order petitions.

The license petitions all charge the 37 CFR 1.17(g) fee, for which small and micro entity discounts recently have been introduced. The USPTO estimates that 20% of the responses in this collection will come from small entities and approximately 10% of the small entity respondents will qualify as micro entities.

Number	Item	Responses (a)	Filing fee ($) (b)	Total non-hour cost burden (a) × (b) (c)
4	Petition for Expedited Handling of License (no corresponding application)	3,200	$200.00	$640,000.00
4	Petition for Expedited Handling of License (no corresponding application) (small entity).	720	100.00	72,000.00
4	Petition for Expedited Handling of License (no corresponding application) (micro entity).	80	50.00	4,000.00
5	Petition for Expedited Handling of License (corresponding U.S. application)	200	200.00	40,000.00
5	Petition for Expedited Handling of License (corresponding U.S. application) (small entity).	45	100.00	4,500.00
5	Petition for Expedited Handling of License (corresponding U.S. application) (micro entity).	5	50.00	250.00
6	Petition for Changing Scope of License	1	200.00	200.00
6	Petition for Changing Scope of License (small entity)	1	100.00	100.00
6	Petition for Changing Scope of License (micro entity)	1	50.00	50.00
7	Petition for Retroactive License	120	200.00	24,000.00
7	Petition for Retroactive License (small entity)	27	100.00	2,700.00
7	Petition for Retroactive License (micro entity)	3	50.00	150.00
Totals		4,434		787,950.00

The USPTO estimates that 99% of the petitions in this collection are submitted by facsimile or hand carried because of the quick turnaround required. For the 1% of the public that chooses to submit the petitions to the USPTO by mail through the United States Postal Service, the USPTO estimates that the average USPS Priority Mail postage cost for a legal flat rate envelop is estimated to be $7.65, and that 44 submissions will be mailed to the USPTO per year for a total estimated postage cost of $336.60.

POSTAGE COSTS

IC No.	Item	Estimated mailed responses (a)	Estimated postage rate (b)	Total annual (non-hour) cost burden (a) × (b) = (c)
4	Petition for Expedited Handling of License (no corresponding application)	40	$7.65	$306
5	Petition for Expedited Handling of License (corresponding U.S. application)	2	7.65	15.30
7	Petition for Retroactive License	2	7.65	15.30
Total		44		336.60

Therefore, the USPTO estimates that the total (non-hour) cost burden for this collection in the form of filing fees and postage costs is estimated to be approximately $788,286.60.

IV. Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

USPTO invites public comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents, *e.g.,* 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.

Marcie Lovett,

Director, Records and Information Governance Branch, OAS, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2019–25510 Filed 11–22–19; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Prepare an Environmental Impact Statement for F–35A Wing Beddown and MQ–9 Wing Beddown

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of intent.

SUMMARY: The United States Air Force (USAF) is issuing this notice of intent to advise the public of its intent to prepare an Environmental Impact Statement (EIS) to evaluate potential environmental consequences associated with two independent proposed actions: (1) The beddown of an F–35A Operational Wing at Tyndall AFB, FL. and (2) The beddown of an MQ–9 Remotely Piloted Aircraft (RPA) Operational Wing at either Tyndall AFB, Florida (FL) or Vandenberg AFB, California (CA).

DATES: The USAF will host two open-house public scoping meetings: Tuesday, December 10, 2019, from 5:30 p.m. to 8:30 p.m., at Gulf Coast State College, Student Union East in Panama City, Florida, and Thursday, December 12, 2019, from 5:30 p.m. to 8:30 p.m., at Allan Hancock College, Lompoc Valley Center in Lompoc, California.

ADDRESSES: Submit scoping comments on the proposed F35–A and MQ–9 Wing Beddowns on the project website: *F–35WingandMQ–9WingEIS.com.* Scoping comments can also be submitted to: F–35/MQ–9 EIS Program Manager, Cynthia Pettit, AFCEC/CZN, Attn: F-35/MQ-9, 2261 Hughes Avenue, Suite 155, JBSA Lackland, TX 78236–9853; 210–925–3367; Email: *afcec.czn.workflow@us.af.mil;* 210–925–3367 or FedEx & UPS Deliveries: AFCEC/CZN, 3515 S General McMullen Drive, Suite 155, San Antonio, TX 78226–2018. For comments submitted by mail, a comment form is available for download on the project website. Comments will be accepted at any time during the environmental impact analysis process. However, to ensure the USAF has sufficient time to consider public input in the preparation of the Draft EIS, scoping comments should be submitted via the project website or to the address listed above by December 23, 2019.

SUPPLEMENTARY INFORMATION: The F–35A Proposed Action is to beddown an F–35A Wing at Tyndall AFB, FL, consisting of three operational squadrons, each with 24 Primary Aerospace Vehicles Authorized Aircraft (PAA) and two Backup Aircraft Inventory (BAI) aircraft. Beddown of the F–35A Wing would include constructing and retrofitting of physical infrastructure and facilities and adding personnel to manage and perform operations, which include maintenance of the aircraft. F–35A flight operations for proficiency training would occur at the base and use existing airspace and ranges. The F–35A Wing beddown alternatives identified for evaluation in the EIS include beddown of the three-squadron F–35A Wing at Tyndall AFB, FL and an alternative with a fourth squadron of fifth generation fighter aircraft in addition to the three-squadron F–35A Wing.

The proposed MQ–9 Wing action is to beddown the MQ–9 remotely piloted aircraft system employed by the USAF in support of the Department of Defense directive to support initiatives of overseas contingency operations. The beddown of 24 MQ–9 aircraft would include a Wing Headquarters, an Operations Group, and Maintenance Group; construction and/or renovation of facilities would support staff and house MQ–9 aircraft. The number of base personnel would be increased to fulfill MQ–9 mission requirements. Flight operations for MQ–9 proficiency training would occur at the selected base and in existing airspace and ranges. MQ–9 Wing beddown alternatives identified for evaluation in the EIS include beddown of the MQ–9 Wing at either Tyndall AFB, FL or Vandenberg AFB, CA. Tyndall AFB, FL was identified as the preferred alternative for this mission.

The EIS will address potential environmental consequences resulting from implementation of each alternative for each of the proposed actions, as well as the combination of F–35A and MQ–9 actions at Tyndall AFB, FL. As required by NEPA, a No-Action Alternative, where the beddown of an F–35A Wing would not occur at Tyndall AFB, FL will also be addressed, as will the No-Action Alternative where the beddown of an MQ–9 Wing would not occur at either location. Bay County, Florida and Panama City, Florida are Cooperating Agencies for this EIS.

Scoping and Agency Coordination: To effectively define the full range of issues to be evaluated in the EIS, the USAF will solicit written comments from interested local, state, and federal agencies and elected officials, Native American tribes, interested members of the public, and others. Public scoping meetings will be held in the local communities near the alternative bases. The scheduled dates, times, locations, and addresses for the public scoping meetings are concurrently being published in local media.

Adriane Paris,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2019–25537 Filed 11–22–19; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Department of the Army

Performance Review Board Membership

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Notice is given of the names of members of a Performance Review Board for the Department of the Army.

DATES: The list of members is effective November 13, 2019.

FOR FURTHER INFORMATION CONTACT: Barbara Smith, Civilian Senior Leader

Management Office, 111 Army Pentagon, Washington, DC 20310–0111.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The Department of the Army Performance Review Board will be composed of a subset of the following individuals:

1. Ms. Lisha H. Adams, Executive Deputy to the Commanding General, U.S. Army Materiel Command, Redstone Arsenal, AL.
2. Mr. Stephen D. Austin, Assistant Chief of the Army Reserve, Office of the Chief Army Reserve, Washington, DC.
3. Mr. Mark F. Averill, Deputy Administrative Assistant to the Secretary of the Army/Director Resources & Program Agency, Office of the Administrative Assistant, Washington, DC.
4. Mr. Stephen G. Barth, Deputy Assistant Secretary of the Army (Cost and Economics), Office of the Assistant Secretary of the Army (Financial Management & Comptroller), Washington, DC.
5. LTG Scott D. Berrier, Deputy Chief of Staff, Office of the Deputy Chief of Staff G–2, Washington, DC.
6. Ms. Carol Burton, Director, Civilian Human Resources Agency, Aberdeen Proving Ground, MD.
7. Ms. Carla Kay Coulson, Director, Installation Services, Assistant Chief of Staff for Installation Management, Washington, DC.
8. LTG Bruce T. Crawford, Chief Information Officer/G–6, Office of the Chief Information Officer/G–6, Washington, DC.
9. LTG Edward M. Daly, Deputy Commanding General/Chief of Staff, U.S. Army Materiel Command, Redstone Arsenal, AL.
10. Mr. John J. Daniels, Deputy Assistant Secretary for Plans, Programs and Resources, Office of the Assistant Secretary of the Army (Acquisition, Logistics & Technology), Washington, DC.
11. Ms. Karen L. Durham-Aguilera, Executive Director of the Army National Cemeteries Program, Office of the Secretary of the Army, Arlington, VA.
12. MG Jason Evans, Deputy Chief of Staff G–9, Washington, DC.
13. Dr. Elizabeth Fleming, Deputy Director, Engineer Research and Development Center, U.S. Army Corps of Engineers, Vicksburg, MS.
14. LTG Charles Flynn, Deputy Chief of Staff, G–3/5/7, Washington, DC.
15. Mr. Gregory L. Garcia, Deputy Chief Information Officer, Office of the Chief Information Officer/G–6, Washington, DC.
16. GEN Michael X. Garrett, Commanding General, United States Army Forces Command, Fort Bragg, NC.
17. Mr. William J. Gillis, Principal Deputy Assistant Secretary of the Army (Installation, Energy and Environment, Assistant Secretary of the Army (Installation, Energy and Environment, Washington, DC.
18. 1Ms. Sue Goodyear, Deputy Chief Executive Officer, U.S. Army Futures Commander, Austin, TX.
19. Mr. Larry D. Gottardi, Director, Civilian Senior Leader Management Office, Office of the Deputy Under Secretary, Washington, DC.
20. Mr. Stuart A. Hazlett, Deputy Assistant Secretary of the Army (Procurement), Office of the Assistant Secretary of the Army (Acquisition, Logistics & Technology), Washington, DC.
21. Mr. Stacey Hirata, Chief, Military Programs Integration Division, U.S. Army Corps of Engineers, Washington, DC.
22. MG Donald E. Jackson, Jr., Deputy Inspector General, Office of the Inspector General, Washington, DC.
23. HON R. D. James, Assistant Secretary of the Army (Civil Works), Office of the Assistant Secretary of the Army (Civil Works), Washington, DC.
24. HON Bruce D. Jette, Assistant Secretary of the Army (Acquisition, Logistics & Technology), Office of the Assistant Secretary of the Army (Acquisition, Logistics & Technology), Washington, DC.
25. MG Rick Kaiser, Deputy Chief of Engineers/Deputy Commanding General, U.S. Army Corps of Engineers, Washington, DC.
26. Mr. Thomas E. Kelly III, Deputy Under Secretary of the Army, Office of the Deputy Under Secretary, Washington, DC.
27. Mr. Mark R. Lewis, Deputy to the Assistant Secretary of the Army (Manpower and Reserve Affairs), ASA (Manpower and Reserve Affairs), Washington, DC.
28. Mr. Christopher J. Lowman, Assistant Deputy Chief of Staff for Operations (G–3/5/7), Washington, DC.
29. Dr. David Markowitz, Assistant Deputy Chief of Staff for Programs, G–8, Office of the Deputy Chief of Staff, G–8, Washington, DC.
30. LTG Theodore D. Martin, Deputy Commanding General/Chief of Staff, U.S. Army Training and Doctrine Command, Fort Eustis, VA.
31. Mr. Phillip E. Mcghee, Deputy Chief of Staff for Resource Management, G–8, U.S. Army Forces Command, Fort Bragg, NC.
32. Ms. Kathleen S. Miller, Administrative Assistant to the Secretary of the Army, Office of the Administrative Assistant, Washington, DC.
33. Mr. Jonathan D. Moak, Principal Deputy Assistant Secretary of the Army (Financial Management & Comptroller), Office of the Assistant Secretary of the Army (Financial Management & Comptroller), Washington, DC.
34. Mr. William F. Moore, Assistant Deputy Chief of Staff, G–4, Office of the Deputy Chief of Staff, G–4, Washington, DC.
35. Mr. Larry Muzzelo, Deputy to the Commanding General, U.S. Army Communications-Electronics Command, Aberdeen Proving Ground, MD.
36. Mr. Levator Norsworthy, Jr., Deputy General Counsel (Acquisition), Office of the General Counsel, Washington, DC.
37. LTG Paul A. Ostrowski, Military Deputy/Director, Acquisition and Contracting, Office of the Assistant Secretary of the Army (Acquisition, Logistics & Technology), Washington, DC.
38. Ms. Karen W. Pane, Director of Human Resources, U.S. Army Corps of Engineers, Washington, DC.
39. LTG Aundre F. Piggee, Deputy Chief of Staff, Office of the Deputy Chief of Staff, G–4, Washington, DC.
40. Mr. Ronald William Pontius, Deputy to Commanding General, Army Cyber Command, U.S. Army Cyber Command, Fort Belvoir, VA.
41. Ms. Anne L. Richards, The Auditor General, U.S. Army Audit Agency, Fort Belvoir, VA.
42. LTG James Richardson, Commander, U.S. Army Futures Command, Austin, TX.
43. LTG Laura J. Richardson, Commanding General, U.S. Army North, San Antonio, TX.
44. Mr. J. Randall Robinson, Executive Deputy to the Commanding General, U.S. Army Installation Management Command, Fort Sam Houston, TX.
45. Ms. Dawn L. Rosarius, Principal Assistant for Acquisition, U.S. Army Medical Research and Materiel Command, Fort Detrick, MD.
46. Ms. Alexis Ross, DASA for Strategy and Acquisition Reform), Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology), Washington, DC.
47. Mr. Robert Sadowski, Senior Research Scientist (Robotics), U.S. Army

Combat Capabilities Dev Command, Ground Vehicle Systems Center Research, Technology & Integration Office, Warren, MI.

48. Mr. Charles F. Sardo, Chief of Staff, U.S. Army Intelligence and Security Command, Fort Belvoir, VA.

49. Mr. Robert J. Sander, Principal Deputy General Counsel, Office of the General Counsel, Washington, DC.

50. LTG Thomas C. Seamands, Deputy Chief of Staff, Office of the Deputy Chief of Staff, G–1, Washington, DC.

51. Mr. Craig Schmauder, Deputy General Counsel, Office of the Office of General Counsel, Washington, DC.

52. LTG Thomas Seamands, Deputy Chief of Staff, G–1, Washington, DC.

53. LTG Todd T. Semonite, Chief of Engineers/Commanding General, U.S. Army Corps of Engineers, Washington, DC.

54. Ms. Lauri Snider, Senior Advisor, CI, DISCL, Sec Ent Intel and Operations Support, Deputy Chief of Staff, G–2, Washington, DC.

55. Mr. Robin P. Swan, Director, Office of Business Transformation, Office of the Secretary of the Army, Washington, DC.

56. Mr. Brian Toland, Command Counsel, HQ, U.S. Army Materiel Command, Redstone Arsenal, AL.

57. Mr. Roy A. Wallace, Assistant Deputy Chief of Staff, Office of the Deputy Chief of Staff, G–1, Washington, DC.

58. HON Casey Wardynski, Jr., Assistant Secretary of the Army (Manpower and Reserve Affairs), Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs), Washington, DC.

59. LTG Eric J. Wesley, Deputy Commanding General, Futures and Concepts, U.S. Army Futures Command, Joint Base Langley-Eustis, VA.

60. Mr. Jeffrey S. White, Principal Deputy Assistant Secretary of the Army (Acquisitions, Logistics & Technology), Office of the Assistant Secretary of the Army (Acquisition, Logistics & Technology), Washington, DC.

61. Mr. Marshall M. Williams, Principal Deputy Assistant Secretary of the Army (Manpower & Reserve Affairs), Office of the Assistant Secretary of the Army (Manpower & Reserve Affairs), Washington, DC.

Thomas E. Kelly III,

Deputy Under Secretary of the Army.

[FR Doc. 2019–25495 Filed 11–22–19; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket DARS–2019–0043]

Defense Federal Acquisition Regulation Supplement: Public Meetings on DFARS Cases Regarding Technical Data Rights

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Announcement of public meeting.

SUMMARY: DoD is hosting a public meeting to obtain views of experts and interested parties in Government and the private sector regarding amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement statutory amendments and revise policies and procedures for acquisition of technical data and computer software, and associated license rights.

DATES:

Public Meeting Dates: The public meeting will be held on December 20, 2019, from 10:00 a.m. to 1:00 p.m., Eastern time. The public meeting will end at the stated time, or when the discussion ends, whichever comes first.

Registration Dates: Registration to attend the public meeting must be received no later than close of business on December 13. Information on how to register for the public meeting may be found in the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: The public meeting will be held in the Pentagon Library and Conference Center (PLCC), Conference Room B6, 1155 Defense Pentagon, Washington, DC 20301. Conference Room B6 is located on the lower level of the PLCC.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer D. Johnson, telephone 571–372–6100.

SUPPLEMENTARY INFORMATION: DoD is hosting a public meeting to obtain the views of experts and interested parties in Government and the private sector regarding amending the DFARS to implement statutory amendments and revise policies and procedures for acquisition of technical data and computer software, and associated license rights. DoD also seeks to obtain information on the potential increase or decrease in public costs or savings that would result from such amendments to the DFARS. In addition to the statutory changes, DoD is considering recommendations related to that statutory subject matter that were provided in the November 13, 2018, Final Report of the Government-Industry Advisory Panel on Technical Data Rights (Section 813 Panel), established pursuant to section 813 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016.

To facilitate discussion at the public meeting, DoD anticipates publication of advance notices of proposed rulemaking, which will include initial drafts of the DFARS amendments, prior to the public meetings. This approach is based in part on a recommendation of the Section 813 Panel to invite industry to participate in the drafting of rules concerning technical data rights. For the public meeting listed in the **DATES** section of this notice, DoD anticipates discussion of DFARS case 2018–D071, Negotiation of Price for Technical Data and Preference for Specially Negotiated Licenses, which implements section 835 of the NDAA for FY 2018 and section 867 of the NDAA for FY 2019.

After this meeting, DoD anticipates scheduling and hosting additional public meetings, structured in the same manner and for the same overall objective, to address the following DFARS cases:

- 2018–D070, Continuation of Technical Data Rights during Challenges, which implements section 866 of the NDAA for FY 2018.
- 2018–D018, Noncommercial Computer Software, which implements section 871 of the NDAA for FY 2018.
- 2019–D043, Small Business Innovation Research Program Data Rights, which implements changes made by the Small Business Administration in its Policy Directive for the Small Business Innovation Research and Small Business Technology Transfer Programs.
- 2019–D042, Proprietary Data Restrictions, which implements section 809(a), (b), and (d) of the NDAA for FY 2017 and section 815(b) of the NDAA for FY 2012.
- 2019–D044, Rights in Technical Data, which implements section 809(c) of the NDAA for FY 2017 and section 815(a) of the NDAA for FY 2012.

Registration: To ensure adequate room accommodations and to facilitate security screening and entry to the PLCC, individuals wishing to attend the public meeting must register by close of business on the date listed in the **DATES** section of this notice, by sending the following information via email to *osd.dfars@mail.mil:*

(1) Full name.
(2) Valid email address.
(3) Valid telephone number.
(4) Company or organization name.

(5) Whether the individual is a U.S. citizen.

(6) The date(s) of the public meeting(s) the individual wishes to attend.

(7) Whether the individual intends to make a presentation, and, if so, the individual's title.

Building Entry: Upon receipt of an email requesting registration, the Defense Acquisition Regulations System will provide notification to the Pentagon Force Protection Agency (PFPA) that the individual is requesting approval for entry to the PLCC on the date(s) provided. PFPA will send additional instructions to the email address provided in the request for registration. The registrant must follow the instructions in the PFPA email in order to be approved for entry to the PLCC.

One valid government-issued photo identification card (*i.e.,* driver's license or passport) will be required in order to enter the building.

Attendees are encouraged to arrive at least 30 minutes prior to the start of the meeting to accommodate security procedures.

Public parking is not available at the PLCC.

Presentations: If you wish to make a presentation, please submit an electronic copy of your presentation to *osd.dfars@mail.mil* no later than the registration date listed in the **DATES** section of this notice. Each presentation should be in PowerPoint to facilitate projection during the public meeting and should include the presenter's name, organization affiliation, telephone number, and email address on the cover page. Please submit presentations only and cite ''Public Meeting, DFARS Technical Data Rights Cases'' in all correspondence related to the public meeting. There will be no transcription at the meeting. The submitted presentations will be the only record of the public meeting and will be posted to the following website at the conclusion of the public meeting: *https://www.acq.osd.mil/dpap/dars/technical_data_rights.html.*

Special accommodations: The public meeting is physically accessible to persons with disabilities. Requests for reasonable accommodations, sign language interpretation, or other auxiliary aids should be directed to Valencia Johnson, telephone 571–372–6099, by no later than the registration date listed in the **DATES** section of this notice.

The TTY number for further information is: 1–800–877–8339. When the operator answers the call, let him or her know the agency is the Department of Defense and the point of contact is Valencia Johnson at 571–372–6099.

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2019–25562 Filed 11–22–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2019–ICCD–0145]

Agency Information Collection Activities; Comment Request; National Assessment of Educational Progress (NAEP) 2021

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before January 24, 2020.

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–0145. 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 Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208B, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubzdela, 202–245–7377 or email *NCES.Information.Collections@ed.gov.*

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: National Assessment of Educational Progress (NAEP) 2021.

OMB Control Number: 1850–0928.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 564,407.

Total Estimated Number of Annual Burden Hours: 472,735.

Abstract: The National Assessment of Educational Progress (NAEP), conducted by the National Center for Education Statistics (NCES), is a federally authorized survey of student achievement at grades 4, 8, and 12 in various subject areas, such as mathematics, reading, writing, science, U.S. history, civics, geography, economics, technology and engineering literacy (TEL), and the arts. The National Assessment of Educational Progress Authorization Act (Pub. L. 107–279 Title III, section 303) requires the assessment to collect data on specified student groups and characteristics, including information organized by race/ethnicity, gender, socio-economic status, disability, and limited English proficiency. It requires fair and accurate presentation of achievement data and permits the collection of background, noncognitive,

or descriptive information that is related to academic achievement and aids in fair reporting of results. The intent of the law is to provide representative sample data on student achievement for the nation, the states, and subpopulations of students and to monitor progress over time. The nature of NAEP is that burden alternates from a relatively low burden in national-level administration years to a substantial burden increase in state-level administration years when the sample has to allow for estimates for individual states and some of the large urban districts (as part of the Trial Urban District Assessment, or TUDA, program). This request is to conduct NAEP 2021, including operational assessments and pilot tests: Operational national/state/TUDA Digitally Based Assessments (DBA) in mathematics and reading at grades 4 and 8, and Puerto Rico in mathematics at grades 4 and 8; operational national DBA in U.S. history and civics at grade 8; and pilot DBA for mathematics at grades 4 and 8. In December 2019 the final plan for NAEP will be added to this submission, and at that time the burden calculations may change. The NAEP results will be reported to the public through the Nation's Report Card as well as other online NAEP tools.

Dated: November 20, 2019.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division Office of Chief Data Officer.

[FR Doc. 2019–25538 Filed 11–22–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–10–000]

Rover Pipeline LLC; Notice of Application

Take notice that on November 1, 2019, Rover Pipeline LLC (Rover), 1300 Main Street, Houston, Texas 77002, filed in the above referenced docket an abbreviated application pursuant to section 7(c) of the Natural Gas Act, and Part 157 of the Commission's regulations requesting authorization to construct, own, and operate a new meter station on Rover's Sherwood Lateral in Tyler County, West Virginia, all as more fully described in the application which is on file with the Commission and open to public inspection.

The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Blair Lichtenwalter, Senior Director, Regulatory Affairs, Rover Pipeline LLC, 1300 Main Street, Houston, Texas 77002, at (713) 989–2605 or alternatively at *Blair.Lichtenwalter@energytransfer.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 3 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list and will be notified of any meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

As of the February 27, 2018 date of the Commission's order in Docket No. CP16–4–001, the Commission will apply its revised practice concerning out-of-time motions to intervene in any new Natural Gas Act section 3 or section 7 proceeding.[1] Persons desiring to become a party to a certificate proceeding are to intervene in a timely manner. If seeking to intervene out-of-time, the movant is required to ''show good cause why the time limitation should be waived,'' and should provide justification by reference to factors set forth in Rule 214(d)(1) of the Commission's Rules and Regulations.[2]

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 3 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE, Washington, DC 20426.

[1] *Tennessee Gas Pipeline Company, L.L.C.,* 162 FERC ¶ 61,167 at ¶ 50 (2018).

[2] 18 CFR 385.214(d)(1).

Dated: November 19, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–25534 Filed 11–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2126–005; EL19–87–000.
Applicants: Idaho Power Company.
Description: Response to September 19, 2019 Show Cause Order of Idaho Power Company.
Filed Date: 11/18/19.
Accession Number: 20191118–5189.
Comments Due: 5 p.m. ET 12/9/19.

Docket Numbers: ER10–2579–004.
Applicants: NorthPoint Energy Solutions, Inc.
Description: Notification of Non-Material Change in Status of NorthPoint Energy Solutions, Inc.
Filed Date: 11/19/19.
Accession Number: 20191119–5072.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER17–1198–003.
Applicants: Ameren Illinois Company.
Description: Compliance Filing to Order on Rehearing of Ameren Illinois Company.
Filed Date: 11/18/19.
Accession Number: 20191118–5203.
Comments Due: 5 p.m. ET 12/9/19.

Docket Numbers: ER19–420–001.
Applicants: Mendota Hills, LLC.
Description: Report Filing: Refund Report Filing to be effective N/A.
Filed Date: 11/19/19.
Accession Number: 20191119–5105.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER19–2619–002.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Tariff Amendment: 2019–11–19_Amendment to Fast Automatic Generation Control Signals to be effective 10/15/2019.
Filed Date: 11/19/19.
Accession Number: 20191119–5103.
Comments Due: 5 p.m. ET 12/3/19.

Docket Numbers: ER19–2905–001.
Applicants: Southern California Edison Company.
Description: Tariff Amendment: Correction to Tariff Record—Service Agreement No. 1092 ORNI 34 LLC to be effective 10/1/2019.
Filed Date: 11/19/19.
Accession Number: 20191119–5096.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER20–242–001.
Applicants: Sunshine Valley Solar, LLC.
Description: Tariff Amendment: Supplement to Petition for Market-Based Rate Tariff to be effective 10/31/2019.
Filed Date: 11/19/19.
Accession Number: 20191119–5095.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER20–245–001.
Applicants: Sun Streams, LLC.
Description: Tariff Amendment: Supplement to Petition for Market-Based Rate Tariff to be effective 10/31/2019.
Filed Date: 11/19/19.
Accession Number: 20191119–5094.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER20–246–001.
Applicants: Windhub Solar A, LLC.
Description: Tariff Amendment: Supplement to Petition for Market-Based Rate Tariff to be effective 10/31/2019.
Filed Date: 11/19/19.
Accession Number: 20191119–5097.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER20–399–000.
Applicants: Rhode Island Engine Genco, LLC.
Description: Compliance filing: Notice of Non-Material Change in Status, Seller Status and Revised MBR to be effective 11/20/2019.
Filed Date: 11/19/19.
Accession Number: 20191119–5049.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER20–400–000.
Applicants: Rhode Island LFG Genco, LLC.
Description: § 205(d) Rate Filing: Notice of Non-Material Change in Status, Seller Status and Revised MBR to be effective 11/20/2019.
Filed Date: 11/19/19.
Accession Number: 20191119–5050.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER20–401–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Metadata Correction for Six Interim ISAs and Three WMPAs to be effective 1/16/2012.
Filed Date: 11/19/19.
Accession Number: 20191119–5051.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER20–402–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2852R1 Energy Authority/Evergy Kansas Central Meter Agent Ag to be effective 11/1/2019.
Filed Date: 11/19/19.
Accession Number: 20191119–5053.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER20–403–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2802R1 AECC and Evergy Kansas Central Meter Agent Agreement to be effective 11/1/2019.
Filed Date: 11/19/19.
Accession Number: 20191119–5067.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER20–404–000.
Applicants: Northern Indiana Public Service Company.
Description: § 205(d) Rate Filing: Filing of a New Delivery Point to be effective 11/28/2019.
Filed Date: 11/19/19.
Accession Number: 20191119–5093.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER20–405–000.
Applicants: Golden Spread Electric Cooperative, Inc.
Description: § 205(d) Rate Filing: Amended and Restated WPC—Ex A and D to be effective 1/1/2020.
Filed Date: 11/19/19.
Accession Number: 20191119–5108.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER20–406–000.
Applicants: MRP Generation Holdings, LLC.
Description: § 205(d) Rate Filing: Normal 2019 to be effective 11/20/2019.
Filed Date: 11/19/19.
Accession Number: 20191119–5114.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER20–407–000.
Applicants: Alabama Power Company.
Description: § 205(d) Rate Filing: Pinewood Solar LGIA Filing to be effective 11/12/2019.
Filed Date: 11/19/19.
Accession Number: 20191119–5115.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER20–408–000.
Applicants: CalPeak Power LLC.
Description: § 205(d) Rate Filing: Normal 2019 to be effective 11/20/2019.
Filed Date: 11/19/19.
Accession Number: 20191119–5118.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER20–409–000.
Applicants: CalPeak Power—Border LLC.
Description: § 205(d) Rate Filing: Normal 2019 to be effective 11/20/2019.
Filed Date: 11/19/19.
Accession Number: 20191119–5119.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER20–410–000.
Applicants: High Desert Power Project, LLC.
Description: § 205(d) Rate Filing: Normal 2019 to be effective 11/20/2019.

Filed Date: 11/19/19.
Accession Number: 20191119–5120.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER20–411–000.
Applicants: Malaga Power, LLC.
Description: § 205(d) Rate Filing: Normal 2019 to be effective 11/20/2019.
Filed Date: 11/19/19.
Accession Number: 20191119–5121.
Comments Due: 5 p.m. ET 12/10/19.

Docket Numbers: ER20–412–000.
Applicants: Midway Peaking, LLC.
Description: § 205(d) Rate Filing: Normal 2019 to be effective 11/20/2019.
Filed Date: 11/19/19.
Accession Number: 20191119–5122.
Comments Due: 5 p.m. ET 12/10/19.

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: November 19, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–25524 Filed 11–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–388–000]

Traverse Wind Energy Holdings LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Traverse Wind Energy Holdings LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is December 9, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 19, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–25522 Filed 11–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–386–000]

Sundance Wind Project Holdings LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Sundance Wind Project Holdings LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is December 9, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC

Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 19, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–25528 Filed 11–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP20–233–000]

Southwest Gas Storage Company; Notice of Petition for Declaratory Order

Take notice that on November 15, 2019, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure and Section 284.502(b)(1) of the Commission's regulations, Southwest Gas Storage Company (''Southwest Gas Storage'') filed a petition seeking (1) a declaratory order granting Southwest Gas Storage authorization to charge market-based rates for the natural gas storage services performed using certain Southwest Gas Storage facilities located in Michigan and Illinois, and (2) approval of certain waivers of the Commission's rate design, and accounting and reporting requirements, all as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on December 19, 2019.

Dated: November 19, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–25533 Filed 11–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–384–000]

Maverick Wind Project Holdings LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Maverick Wind Project Holdings, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is December 9, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 19, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–25526 Filed 11–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2333–091]

Rumford Falls Hydro, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, Commencement of Pre-Filing Process, and Scoping; Request for Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

a. *Type of Filing:* Notice of Intent to File License Application for New License and Commencing Pre-filing Process.

b. *Submitted By:* Rumford Falls Hydro, LLC.

c. *Name of Project:* Rumford Falls Hydroelectric Project.

d. *Location:* On the Androscoggin River, in Oxford County, Maine.

e. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

f. *Licensee Contact*: Luke Anderson, Rumford Falls Hydro, LLC, Brookfield Renewable, 150 Main St., Lewiston, Maine, 04240, (207) 755–5613, *luke.anderson@brookfieldrenewable.com.*

g. *FERC Contact:* Ryan Hansen at (202) 502–8074 or email at *ryan.hansen@ferc.gov.*

h. *Cooperating Agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item m below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. See 94 FERC ¶ 61,076 (2001).

i. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402 and (b) the 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.

j. With this notice, we are designating Rumford Falls Hydro, LLC as the Commission's non-federal representatives for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

k. Rumford Falls Hydro, LLC filed with the Commission a Pre-Application Document (PAD; including a proposed process plan and schedule), pursuant to 18 CFR 5.6 of the Commission's regulations.

l. Copies of the PAD are 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). Copies are also available for inspection and reproduction at the address in paragraph f.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. With this notice, we are soliciting comments on the PAD and Commission's staff Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph f. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application must be filed with the Commission.

The Commission strongly encourages electronic filing. Please file all documents 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.* 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–2333–091.

All filings with the Commission must bear the appropriate heading: ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by January 25, 2020.

n. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the time and place noted below. The daytime meeting will focus on resource agency, Native-American tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Daytime Scoping Meeting

Date: Tuesday, December 17, 2019.
Time: 1 p.m.
Location: Rumford Municipal Building, 145 Congress St., Rumford, ME 04276.
Phone: (207) 364–4576.

Evening Scoping Meeting

Date: Tuesday, December 17, 2019.
Time: 6 p.m.
Location: Rumford Municipal Building, 145 Congress St., Rumford, ME 04276.
Phone: (207) 364–4576.

SD1, which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 may be viewed on the web at *http://www.ferc.gov,* using the ''eLibrary'' link. Follow the directions for accessing information in paragraph l. Based on all oral and written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

Environmental Site Review

The licensee and Commission staff conducted an Environmental Site Review of the project on October 24, 2019. An environmental site review is typically held in conjunction with the scoping meetings. However, access to some project facilities may be limited by winter weather during December of 2019 when scoping for this project will be conducted. For this reason, the Commission conducted the environmental site review in October before the onset of winter.

Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the appropriateness of any federal or state agency or Native-American tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in

preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in item l of this document.

Meeting Procedures

The meetings will be recorded by a stenographer and will be placed in the public records of the project.

Dated: November 19, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–25532 Filed 11–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–385–000]

Sundance Wind Project, 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 Sundance Wind Project, 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 December 9, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 19, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–25527 Filed 11–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–387–000]

Traverse Wind Energy 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 Traverse Wind Energy LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is December 9, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 19, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–25521 Filed 11–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC20–4–000]

Commission Information Collection Activities (FERC–725I); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–725I (Mandatory Reliability Standards for the Northeast Power Coordinating Council) which will be submitted to the Office of Management and Budget (OMB) for a review of the information collection requirements.

DATES: Comments on the collection of information are due January 24, 2020.

ADDRESSES: You may submit comments (identified by Docket No. IC20–4–000) by either of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–725I (Mandatory Reliability Standards for the Northeast Power Coordinating Council).

OMB Control No.: 1902–0258.

Type of Request: Three-year extension of the FERC–725I with no changes to the current reporting and recordkeeping requirements.

Abstract: The Regional Reliability standard PRC–006–NPCC–1 (Automatic Underfrequency Load Shedding) provides regional requirements for Automatic Underfrequency Load Shedding to applicable entities in NPCC. UFLS requirements have been in place at a continent-wide level and within NPCC for many years prior to the implementation of federally mandated reliability standards in 2007. NPCC and its members think that a region-wide, fully coordinated single set of UFLS requirements is necessary to create an effective and efficient UFLS program, and their experience has supported that belief.

Information collection burden for Reliability Standard PRC–006–NPCC–01 is based on the time needed for planning coordinators and generator owners to incrementally gather data, run studies, and analyze study results to design or update the UFLS programs that are required in the regional Reliability Standard (in addition to the requirements of the NERC Reliability Standard PRC–006–3). There is also burden on the generator owners to maintain data.

Type of Respondent: Generator Owners and Planning Coordinators

Estimate of Annual Burden: [1] The number of respondents is based on NERC's Registry as of July 26, 2019. Entities registered for more than one applicable function type have been accounted for in the figures below. The Commission estimates the annual public reporting burden and cost [2] for the information collection as:

FERC–725I

Information collection requirements	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hours & cost ($) per response (4)	Total annual burden hours & total annual cost ($) (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
PCs design and document automatic UFLS program.	6	1	6	8 hrs.; $640	48 hrs.; $3,840	$640
PCs update and maintain UFLS program database.	6	1	6	16 hrs.; $1,280	96 hrs.; $7,680	1,280
GOs provide documentation and data to the planning coordinator.	136	1	136	16 hrs.; $1,280	2,176 hrs.; $174,080	1,280
GOs: record retention	136	1	136	4 hrs.; $320	544 hrs.; $43,520	320
Total			284		2,864 hrs.; $229,120	

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: November 19, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–25523 Filed 11–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–12–000]

Columbia Gas Transmission, LLC; Notice of Application

Take notice that on November 6, 2019, Columbia Gas Transmission, LLC (Columbia), 700 Louisiana Street Suite 700, Houston, Texas, 77002–2700, filed an application pursuant to section 7(c) of the Natural Gas Act, and Subpart A of the Commission's regulations, for authorization to amend its existing authorizations of the Leach XPress Project (Leach Xpress). Specifically, Columbia proposes to: (1) Modify the full-load operation of the Ceredo compressor station (Ceredo CS) to limit the use of the seven existing vintage reciprocating units at the Ceredo CS to four units at a given time; (2) allow for the use of additional horsepower that is available from existing electric-driven compressor units located at the Ceredo CS; and (3) amend the noise level requirement for the Ceredo CS and the

[1] "Burden" is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to Title 5 Code of Federal Regulations 1320.3.

[2] Commission staff estimates that the industry's skill set and cost (for wages and benefits) for FERC–725I are approximately the same as the Commission's average cost. The FERC 2019 average salary plus benefits for one FERC full-time equivalent (FTE) is $167,091/year (or $80.00/hour).

Crawford Compressor Station contained in Environmental Condition 31 of the Leach XPress Certificate Order. The proposed amended noise condition would allow Columbia to operate the Ceredo CS at the reduced maximum noise levels that result from the proposed amended full load operations, all as more fully described in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Sorana Linder, Director, Modernization & Certificates, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 700, Houston, Texas 77002–2700, Phone: 832–320–5209; or email: *Sorana_linder@tcenergy.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 3 copies of filings made in the proceeding with the Commission and must provide a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, and will be notified of any meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

As of the February 27, 2018 date of the Commission's order in Docket No. CP16–4–001, the Commission will apply its revised practice concerning out-of-time motions to intervene in any new Natural Gas Act section 3 or section 7 proceeding.[1] Persons desiring to become a party to a certificate proceeding are to intervene in a timely manner. If seeking to intervene out-of-time, the movant is required to ''show good cause why the time limitation should be waived,'' and should provide justification by reference to factors set forth in Rule 214(d)(1) of the Commission's Rules and Regulations.[2]

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 3 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on December 10, 2019.

Dated: November 19, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–25531 Filed 11–22–19; 8:45 am]

BILLING CODE 6717–01–P

[1] *Tennessee Gas Pipeline Company, L.L.C.,* 162 FERC ¶ 61,167 at ¶ 50 (2018).

[2] 18 CFR 385.214(d)(1).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–383–000]

Maverick Wind Project, 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 Maverick Wind Project, 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 December 9, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 19, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–25525 Filed 11–22–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0679; FRL–10002–41–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units (EPA ICR Number 1844.11, OMB Control Number 2060–0554), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through January 31, 2020. Public comments were previously requested, via the **Federal Register**, on May 6, 2019 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before December 26, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0679, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units apply to three types of affected units at major source petroleum refineries: Fluid catalytic cracking units (FCCU) for catalyst regeneration, catalytic reforming units (CRU), and sulfur recovery units (SRU). The rule also includes requirements for by-pass lines associated with the three affected units. Owners and operators of affected units are required to comply with reporting and record keeping requirements for the General Provisions (40 CFR part 63, subpart A), as well as for the applicable standards in 40 CFR part 63, subpart UUU. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the operation of an affected facility. These reports are used by EPA to determine compliance with these standards.

Form Numbers: None.

Respondents/affected entities: Petroleum refineries that operate catalytic cracking units, catalytic reforming units, and sulfur recovery units.

Respondent's obligation to respond: Mandatory (40 CFR part 63).

Estimated number of respondents: 142 (total).

Frequency of response: Semiannually.

Total estimated burden: 17,500 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $10,800,000 (per year), includes $8,780,000 annualized capital or operation & maintenance costs.

Changes in the estimates: There is a moderate decrease in burden in this ICR compared to the previous ICR. The decrease in the burden and cost estimates occurred because refineries are assumed to have implemented the initial 2015 rule compliance activities since the standard has been in effect for more than three years. The previous ICR reflected those burdens and costs associated with the initial activities for subject facilities. This includes conducting performance test(s) and establishing or revising recordkeeping systems. This ICR, by in large, reflects the on-going burden and costs for existing facilities. Activities for existing sources include 5-year performance tests, continuous monitoring of pollutants, and the submission of semiannual reports. This ICR also corrects the Agency burden from the prior ICR to account for burden for review of submitted RATA for units using CEMS.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–25485 Filed 11–22–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0289, OMB 3060–0331, OMB 3060–0419 and 3060–1045; FRS 16277]

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before January 24, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams, (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0289.

Title: Section 76.601, Performance Tests; Section 76.1704, Proof of Performance Test Data; Section 76.1717, Compliance with Technical Standards.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities, and state, local, or tribal government.

Number of Respondents: 4,085 respondents, 6,433 responses.

Estimated Time per Response: 0.5 to 70 hours.

Frequency of Response: Recordkeeping requirement, Semi-annual and Triennial reporting requirements; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 4(i) and 624(e) of the Communications Act of 1934, as amended.

Total Annual Burden: 166,405 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

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

Needs and Uses: The Commission seeks to modify this submission to reflect that the testing required under Section 76.601(b) applies only to cable systems that deliver analog signals, and the cable operator must only test analog channels (*see* FCC 17–120). We expect that this change will reduce the number of filers associated with this information collection.

OMB Control Number: 3060–0331.

Title: Aeronautical Frequency Notification, FCC Form 321

Form Number: FCC Form 321.

Type of Review: Revision of a currently approved collection.

Respondents: Business and other for-profit entities; not-for-profit institutions.

Number of Respondents: 1,886 respondents, 1,886 responses.

Estimated Time per Response: 0.67 hours.

Frequency of Response: One time and on occasion reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i), 301, 303, 308, 309 and 621 of the Communications Act of 1934, as amended.

Total Annual Burden: 1,264 hours.

Total Annual Cost: $132,020

Privacy Impact Assessment: No impact(s).

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

Needs and Uses: Multichannel Video Programming Distributors (MVPDs) provide their programming over a closed system and, thus, may use all frequencies to do so. They must, however, prevent leakage of those signals from the system and guard against and minimize any harm to aeronautical communications should leak occur. Part of the regime for protecting aeronautical frequencies from interference and resolving interference is notification of the Commission of use of those frequencies and that proper frequency offsets and other precautions are taken. Form 321 is used for this purpose.

The Commission seeks to modify this submission to reflect that the Commission adopted a rule, 47 CFR 76.1804, which a new trigger for filing FCC Form 321 (*see* FCC 17–120, adopted on September 22, 2017). Under 47 CFR 76.1804, an MVPD shall notify the Commission before transmitting any digital signal with average power exceeding 10^{-5} watts across a 30 kHz bandwidth in a 2.5 millisecond time period, or for other signal types, any carrier of other signal component with an average power level across a 25 kHz bandwidth in any 160 microsecond time period equal to or greater than 10^{-4} watts at any point in the cable distribution system on any new frequency or frequencies in the aeronautical radio frequency bands (108–137 MHz, 225–400 MHz). The notification shall be made on FCC Form 321.

OMB Control Number: 3060–0419.

Title: Network Non-duplication Protection and Syndication Exclusivity: Sections 76.94, Notification; 76.95, Exceptions; 76.105, Notifications; 76.106, Exceptions; 76.107, Exclusivity Contracts; and 76.1609, Non-Duplication and Syndicated Exclusivity.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 5,980 respondents; 249,880 responses.

Estimated Time per Response: 0.5 to 2 hours.

Frequency of Response: On occasion reporting requirement; One-time reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this Information collection is contained in Section 4(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 233,420 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

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

Needs and Uses: This information collection is being revised to receive approval for a minor revision to 47 CFR 76.105(b), which requires broadcasters entering into contracts that contain syndicated exclusivity protection to notify affected cable systems within 60 calendar days of the signing of such a contract. The revision to 47 CFR 76.105(b) removes outdated language about contracts entered into before August 18, 1988 (*see* FCC 17–120).

OMB Control Number: 3060–1045.

Title: Section 76.1610, Change of Operational Information; FCC Form 324, Operator, Mail Address, and Operational Status Changes.

Form Number: FCC Form 324.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents: 325 respondents; 325 responses.

Estimated Time per Response: 0.5 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 154(i), 303, 308, 309 and 621 of the Communications Act of 1934, as amended.

Total Annual Burden: 163 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

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

Needs and Uses: The information collection requirements contained in 47 CFR 76.1610 require that operators shall inform the Commission on FCC Form 324 whenever there is a change of cable television system operator; change of legal name, change of the operator's mailing address or FCC Registration Number (FRN); or change in the operational status of a cable television system. Notification must be done within 30 days from the date the change occurs and must include the following information, as appropriate: (a) The legal name of the operator and whether the operator is an individual, private association, partnership, corporation, or government entity. See Section 76.5(cc). If the operator is a partnership, the legal name of the partner responsible for communications with the Commission shall be supplied; (b) The assumed name (if any) used for doing business in each community; (c) The physical address, including zip code, and email address, if applicable, to which all communications are to be directed; (d) The nature of the operational status change (*e.g.,* operation terminated, merged with another system, inactive, deleted, etc.); (e) The names and FCC identifiers (*e.g.,* CA 0001) of the system communities affected.

The Commission removed 47 CFR 76.1620(f) and (g) from its rules to remove duplication from that rule section (see FCC 17–120, adopted on September 22, 2017).

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–25565 Filed 11–22–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1225; FRS 16269]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, 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. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before December 26, 2019. If you anticipate that you will be submitting comments but find it difficult to do so with the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@OMB.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–1225.

Title: National Deaf-Blind Equipment Distribution Program.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; businesses or other for-profit entities; not-for-profit institutions; state, local, or tribal governments.

Number of Respondents and Responses: 69 respondents; 3,806 responses.

Estimated Time per Response: 0.5 hours (30 minutes) to 40 hours.

Frequency of Response: Annual, semiannual, quarterly, monthly, one time, and on occasion reporting requirements; recordkeeping requirement; third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefit. Statutory authority for this information collection is contained in sections 1, 4(i), 4(j), and 719 of the Communications Act, as amended, 47 U.S.C. 151, 154(i), 154(j), and 620.

Total Annual Burden: 7,793 hours.

Total Annual Cost: $600.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the Commission's system of records notice (SORN), FCC/CGB–3, ''National Deaf-Blind Equipment Distribution Program,'' which became effective on February 28, 2012.

Privacy Impact Assessment: The Commission is in the process of preparing the Privacy Impact Assessment (PIA) related to the personally identified information (PII) covered by these information collections, as required by OMB's Memorandum M–03–22 (September 26, 2003) and by the Privacy Act, 5 U.S.C. 552a.

Needs and Uses: Section 105 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) added section 719 to the Communications Act of 1934, as amended (the Act). Pubic Law 111–260, 124 Stat. 2751 (2010); Public Law 111–265, 124 Stat. 2795 (2010) (making technical corrections); 47 U.S.C. 620. Section 719 of the Act requires the Commission to establish rules that define as eligible for up to $10,000,000 of support annually from the Interstate Telecommunications Relay Service Fund (TRS Fund) those programs that are approved by the Commission for the distribution of specialized customer premises equipment designed to make telecommunications service, internet access service, and advanced communications, including interexchange services and advanced telecommunications and information services, accessible by low-income individuals who are deaf-blind. 47 U.S.C. 620(a), (c). Accordingly, on April 6, 2011, the Commission released a Report and Order, document FCC 11–56, that established the National Deaf-Blind Equipment Distribution Program (NDBEDP) as a pilot program.

On August 5, 2016, the Commission released a Report and Order, document FCC 16–101, adopting rules to establish the NDBEDP, also known as ''iCanConnect,'' as a permanent program. See 47 CFR 64.6201 through 64.6219.

In document FCC 16–101, the Commission adopted rules requiring the following:

(a) Entities must apply to the Commission for certification to receive reimbursement from the TRS Fund for NDBEDP activities. The FCC's Consumer and Governmental Affairs Bureau (CGB or Bureau) certified 56 programs—one for each state, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands—for a period of five years, from July 1, 2017, through June 30, 2022. Incumbent programs must apply to renew their certifications, if desired, and potential new entrants must also apply for certification by July 1, 2021.

(b) A program wishing to relinquish its certification before its certification expires must provide written notice of its intent to do so.

(c) Certified programs must disclose to the Commission actual or potential conflicts of interest.

(d) Certified programs must notify the Commission of any substantive change that bears directly on its ability to meet the qualifications necessary for certification.

(e) A certified entity may present written arguments and any relevant documentation as to why suspension or revocation of certification is not warranted.

(f) When a new entity is certified as a state's program, the previously certified entity must take certain actions to complete the transition to the new entity.

(g) Certified programs must require an applicant to provide verification that the applicant is deaf-blind.

(h) Certified programs must require an applicant to provide verification that the applicant meets the income eligibility requirement.

(i) Certified programs must re-verify the income and disability eligibility of an equipment recipient under certain circumstances.

(j) Certified programs must permit the transfer of an equipment recipient's account when the recipient relocates to another state.

(k) Certified programs must include an attestation on consumer application forms.

(l) Certified programs must conduct annual audits and submit to Commission-directed audits.

(m) Certified programs must document compliance with NDBEDP requirements, provide such documentation to the Commission upon request, and retain such records for at least five years.

(n) Certified programs must submit reimbursement claims as instructed by the TRS Fund Administrator, and supplemental information and documentation as requested. In addition, the entity selected to conduct national outreach will submit claims for reimbursement on a quarterly basis.

(o) Certified programs must submit reports every six months as instructed by the NDBEDP Administrator. In addition, the entity selected to conduct national outreach will submit an annual report.

(p) Informal and formal complaints may be filed against NEDBEDP certified programs, and the Commission may conduct such inquiries and hold such proceedings as it may deem necessary.

(q) Certified programs must include the NDBEDP whistleblower protections in appropriate publications.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–25563 Filed 11–22–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0944; FRS 16270]

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 of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of

information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before January 24, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams, (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0944.

Title: Cable Landing License Act—47 CFR 1.767; 1.768; Executive Order 10530.

Form Number: Submarine Cable Landing License Application.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 38 respondents; 94 responses.

Estimated Time per Response: 0.50 hour to 17 hours.

Frequency of Response: On occasion reporting requirement, Quarterly reporting requirement, Recordkeeping requirement and third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in the Submarine Cable Landing License Act of 1921, 47 U.S.C. 34–39, Executive Order 10530, section 5(a), and the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)–(j), 155, 303(r), 309, 403.

Total Annual Burden: 421 hours.

Total Annual Cost: $92,985.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information.

Needs and Uses: The Federal Communications Commission (Commission) is requesting that the Office of Management and Budget (OMB) approve a three-year extension of OMB Control No. 3060–0944. There are no changes in the number of respondents, responses, annual burden hours and annual costs.

The information will be used by the Commission staff in carrying out its duties under the Submarine Cable Landing License Act of 1921, 47 U.S.C. 34–39, Executive Order 10530, section 5(a), and the Communications Act of 1934, as amended. The information collections are necessary largely to determine whether and under what conditions the Commission should grant a license for proposed submarine cables landing in the United States, including applicants that are, or are affiliated with, foreign carriers in the destination market of the proposed submarine cable. Pursuant to Executive Order No. 10530, the Commission has been delegated the President's authority under the Cable Landing License Act to grant cable landing licenses, provided that the Commission must obtain the approval of the State Department and seek advice from other government agencies as appropriate. If the collection is not conducted or is conducted less frequently, applicants will not obtain the authorizations necessary to provide telecommunications services and facilities, and the Commission will be unable to carry out its mandate under the Cable Landing License Act and Executive Order 10530. In addition, without the collection, the United States would jeopardize its ability to fulfill the U.S. obligations as negotiated under the World Trade Organization (WTO) Basic Telecom Agreement because certain of these information collection requirements are imperative to detecting and deterring anticompetitive conduct. They are also necessary to preserve the Executive Branch agencies' and the Commission's ability to review foreign investments for national security, law enforcement, foreign policy, and trade concerns.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–25564 Filed 11–22–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL LABOR RELATIONS AUTHORITY

Senior Executive Service Performance Review Board

AGENCY: Federal Labor Relations Authority.

ACTION: Notice.

SUMMARY: The Federal Labor Relations Authority (FLRA) publishes the names of the persons selected to serve on its SES Performance Review Board (PRB). This notice supersedes all previous notices of the PRB membership.

DATES: Upon publication.

ADDRESSES: Written comments about this final rule can be mailed to the Case Intake and Publication Office, Federal Labor Relations Authority, 1400 K Street NW, Washington, DC 20424. All written comments will be available for public inspection during normal business hours at the Case Intake and Publication Office.

FOR FURTHER INFORMATION CONTACT: Michael Jeffries, Executive Director, Federal Labor Relations Authority, 1400 K St., NW, Washington, DC 20424, (202) 218–7982, *mjeffries@flra.gov.*

SUPPLEMENTARY INFORMATION: Section 4314(c) of Title 5, U.S.C. requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more PRBs. The PRB shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any response by the senior executive, and make recommendations to the final rating authority relative to the performance of the senior executive.

The persons named below have been selected to serve on the FLRA's PRB.

PRB Chairman

Michael Jeffries, Executive Director, FLRA, and PRB Chairman

PRB Members

Kimberly Moseley, Executive Director, Federal Service Impasses Panel

Charlotte Dye, Deputy General Counsel, FLRA

Timothy Curry, Deputy Associate Director, Accountability and Workforce Relations, Employee Services, Office of Personnel Management

Sara Ratcliff, Executive Director, Chief Human Capital Officers Council, Office of Personnel Management

Dated: November 20, 2019.

Michael Jeffries,

Executive Director.

[FR Doc. 2019–25575 Filed 11–22–19; 8:45 am]

BILLING CODE 6727–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th and Constitution Avenue NW, Washington, DC 20551–0001, not later than December 9, 2019.

A. Federal Reserve Bank of Atlanta (Kathryn Haney, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. The Persons Family Trust, Macon, Georgia, George Ogden Persons, III, Macon, Georgia; Jim Gillis Persons, Atlanta, Georgia; and Katherine Persons Kelly, Richmond, Virginia, as co-trustees; and together with George Ogden Persons, III, Jim Gillis Persons, and Katherine Persons Kelly; as members of a group acting in concert to retain voting shares of Persons Banking Co., Inc., Macon, Georgia, and thereby indirectly retain voting shares of Persons Banking Company, Forsyth, Georgia.

Board of Governors of the Federal Reserve System, November 19, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–25462 Filed 11–22–19; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 182 3192]

Medable, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before December 26, 2019.

ADDRESSES: Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''Medable, Inc.; File No. 182 3192'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Robin Wetherill (202–326–2220), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for November 19, 2019), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before December 26, 2019. Write ''Medable, Inc.; File No. 182 3192'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''Medable, Inc.; File No. 182 3192'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or

confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before December 26, 2019. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy*.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a consent order from Medable, Inc. (''Medable'' or ''Respondent'').

The proposed consent order (''proposed order'') has been placed on the public record for thirty (30) days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter concerns alleged false or misleading representations that Medable made concerning its participation in the Privacy Shield framework agreed upon by the U.S. and the European Union (''EU''). The Privacy Shield framework allows for the lawful transfer of personal data from the EU to participating companies in the U.S. The framework consists of a set of principles and related requirements that have been deemed by the European Commission as providing ''adequate'' privacy protection. The principles include notice; choice; accountability for onward transfer; security; data integrity and purpose limitation; access; and recourse, enforcement, and liability. The related requirements include, for example, securing an independent recourse mechanism to handle any disputes about how the company handles information about EU citizens.

To participate in the framework, a company must comply with the Privacy Shield principles and self-certify that compliance to the U.S. Department of Commerce (''Commerce''). Commerce reviews companies' self-certification applications and maintains a public website, *https://www.privacyshield.gov/list,* where it posts the names of companies who have completed the requirements for certification. Companies are required to recertify every year in order to continue benefitting from Privacy Shield.

Medable is a technology development company. It primarily provides services that help pharmaceutical and biotechnology researchers collect and process data about research participants. According to the Commission's complaint, from approximately December 2017 until October 2018, Medable published on its website, *http://www.medable.com,* a privacy policy containing statements related to its participation in Privacy Shield.

The Commission's proposed one-count complaint alleges that Respondent violated Section 5(a) of the Federal Trade Commission Act. Specifically, the proposed complaint alleges that Respondent engaged in a deceptive act or practice by falsely representing that it was a certified participant in the EU–U.S. Privacy Shield Framework.

Part I of the proposed order prohibits the company from making misrepresentations about its membership in any privacy or security program sponsored by the government or any other self-regulatory or standard-setting organization, including, but not limited to, the EU–U.S. Privacy Shield framework and the Swiss-U.S. Privacy Shield framework.

Parts II through V of the proposed order are reporting and compliance provisions. Part II requires acknowledgement of the order and dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Part III ensures notification to the FTC of changes in corporate status and mandates that the company submit an initial compliance report to the FTC. Part IV requires the company to create certain documents relating to its compliance with the order for ten years and to retain those documents for a five-year period. Part V mandates that the company make available to the FTC information or subsequent compliance reports, as requested.

Part VI is a provision ''sun-setting'' the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2019–25502 Filed 11–22–19; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–MV–2019–02; Docket No. 2019–0002; Sequence No. 30]

Notice of Announcement of GSA Leasing Forum

AGENCY: Office of Governmentwide Policy (OGP), General Services Administration (GSA).

ACTION: Meeting notice.

SUMMARY: The General Services Administration (GSA) is committed to fostering productive relationships between GSA and its industry partners. Toward that end, the GSA Office of Leasing within GSA's Public Buildings Service (PBS) is working with GSA's Office of the Procurement Ombudsman to host a GSA Leasing Forum in February 2020. The target audience for this event is the Office of Leasing's industry partners. In order to ensure that the GSA Leasing Forum is meaningful and effective, PBS is hosting a virtual Roundtable discussion to identify leasing topics of interest to GSA's industry partners.

DATES: The Roundtable discussion will be held on Wednesday, December 18,

2019, from 3:00 p.m. to 4:30 p.m., Eastern Daylight Time (EDT). The Meeting Space line will open up at 2:45 p.m., EDT, and the Roundtable session will start promptly at 3:00 p.m., EDT. Attendees must be registered to participate. Participation will be through a moderated virtual messaging chat function Meeting Space.

ADDRESSES: The meeting will be held virtually and the Meeting Space call-in information will be made available to registrants. Industry partners wishing to virtually attend and participate in this Roundtable event must register by Tuesday, December 17, 2019, at *https://interact.gsa.gov/event/pbs-leasing-roundtable-industry-engagement-event.* Registration is free and based on space availability.

Members of the press, in addition to registering for this event, must also RSVP to *press@gsa.gov* by December 11, 2019.

FOR FURTHER INFORMATION CONTACT: Lance Feiner at 202–208–6155 or *lance.feiner@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Background

PBS is seeking to build productive relationships with its industry partners by seeking industry input and contributions to allow for more meaningful and productive interactions during industry day events. PBS invites industry representatives from the leasing community to share thoughts, major topics of interest, and challenges that your company or industry faces with regard to GSA's leasing program. PBS intends to use the information gathered from this Roundtable event to inform the planning of its GSA Leasing Forum scheduled for February 24, 2020.

GSA is particularly interested in responses to the following questions:

- *What topics would be of interest to you during a GSA Leasing Forum?*
- *Are there any specific challenges your organization faces in regards to GSA leasing?*
- *What is GSA Leasing doing well and what could GSA Leasing do better?*

Format

A Moderator will pose questions to the Roundtable speakers who will respond. Virtual meeting attendees will have the opportunity to send in comments/responses regarding each question through a moderated chat function during the session.

Special Accommodations

This virtual meeting is accessible to people with disabilities. Request for auxiliary aids should be directed to *Brian.Snow@gsa.gov* by December 4, 2019.

Roundtable Speakers

- Justin Hawes, *Division Director, PBS Office of Leasing, GSA Moderator.*
- Chad Becker, *Principal, ARCO Real Estate Solutions.*
- Ron Kendal, *Executive Vice President, Easterly Government Properties.*
- Joe Delogu, *Principal, FD Stonewater.*
- Fran Cowan, *Vice President, NGP V Fund, LLC.*
- Greg Margetich, *President, The Margetich Group.*

Agenda

- 3:00–3:02: GSA/PBS Welcome.
- 3:02–3:10: Introduction of roundtable participants by GSA Moderator.
- 3:10–4:20: Roundtable discussion, with questions posed by GSA Moderator.
- 4:20–4:30: GSA/PBS Close out.

Maria Swaby,

GSA Procurement Ombudsman, General Services Administration.

[FR Doc. 2019–25556 Filed 11–22–19; 8:45 am]

BILLING CODE 6820–61–P

OFFICE OF GOVERNMENT ETHICS

Agency Information Collection Activities; Submission for OMB Review; Proposed Collection; Comment Request for a Modified OGE Form 201, Request To Inspect or Receive Copies of Executive Branch Personnel Public Financial Disclosure Reports or Other Covered Records

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice of request for agency and public comments.

SUMMARY: After this first round notice and public comment period, the U.S. Office of Government Ethics (OGE) plans to submit a proposed modified OGE Form 201, Request to Inspect or Receive Copies of Executive Branch Personnel Public Financial Disclosure Reports or Other Covered Records, to the Office of Management and Budget (OMB) for review and approval of a three-year extension under the Paperwork Reduction Act of 1995. The OGE Form 201 is used by persons requesting access to executive branch public financial disclosure reports and other covered records.

DATES: Written comments by the public and agencies on this proposed extension are invited and must be received by January 24, 2020.

ADDRESSES: Comments may be submitted to OGE, by any of the following methods:

Email: usoge@oge.gov. (Include reference to ''OGE Form 201 Paperwork Comment'' in the subject line of the message.)

FAX: 202–482–9237, Attn: Grant Anderson.

Mail, Hand Delivery/Courier: Office of Government Ethics, 1201 New York Avenue NW, Suite 500, Attention: Grant Anderson, Assistant Counsel, Washington, DC 20005–3917.

Instructions: Comments may be posted on OGE's website, *www.oge.gov.* Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Grant Anderson at the U.S. Office of Government Ethics; telephone: 202–482–9318; TTY: 800–877–8339; FAX: 202–482–9237; Email: *ganderso@oge.gov.* An electronic copy of the OGE Form 201 version used to manually submit access requests to OGE or other executive branch agencies by mail or FAX is available in the Forms Library section of OGE's website at *http://www.oge.gov.* A paper copy may also be obtained, without charge, by contacting Mr. Anderson. An automated version of the OGE Form 201, also available on OGE's website, enables the requester to electronically fill out, submit and receive access to copies of the public financial disclosure reports certified by the U.S. Office of Government Ethics.

SUPPLEMENTARY INFORMATION:

Title: Request to Inspect or Receive Copies of Executive Branch Personnel Public Financial Disclosure Reports or Other Covered Records.

Agency Form Number: OGE Form 201.

OMB Control Number: 3209–0002.

Type of Information Collection: Extension with modifications of a currently approved collection.

Type of Review Request: Regular.

Respondents: Individuals requesting access to executive branch public financial disclosure reports and other covered records.

Estimated Annual Number of Respondents: 7,600.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden: 1,300 hours.

Abstract: The OGE Form 201 collects information from, and provides certain

information to, persons who seek access to OGE Form 278 Public Financial Disclosure Reports, including OGE Form 278–T Periodic Transaction Reports, and other covered records. The form reflects the requirements of the Ethics in Government Act, subsequent amendments pursuant to the STOCK Act, and OGE's implementing regulations that must be met by a person before access can be granted. These requirements include the address of the requester, as well as any other person on whose behalf a record is sought, and acknowledgement that the requester is aware of the prohibited uses of executive branch public disclosure financial reports. See 5 U.S.C. appendix 105(b) and (c) and 402(b)(1) and 5 CFR 2634.603(c) and (f). Executive branch departments and agencies are encouraged to utilize the OGE Form 201 for individuals seeking access to public financial disclosure reports and other covered documents. OGE permits departments and agencies to use or develop their own forms as long as the forms collect and provide all of the required information.

OGE recently revised its OGE/GOVT–1, Executive Branch Personnel Public Financial Disclosure Reports and Other Name-Retrieved Ethics Program Records system of records. The revisions were published in the **Federal Register** on September 9, 2019, and went into effect on November 8, 2019. The revisions included several new and modified routine uses. The information collected on the OGE Form 201 is maintained in the OGE/GOVT–1 Governmentwide system of records, and the form contains a Privacy Act statement referencing OGE/GOVT–1 as required by section (e)(3) of the Privacy Act. Accordingly, OGE proposes to update the Privacy Act statement in accordance with changes to the OGE/GOVT–1 system of records. No other changes to the form are proposed. This change will have no material effect on the burden to filers.

Request for Comments: OGE is publishing this first round notice of its intent to request paperwork clearance for a proposed modified OGE Form 201. Agency and public comment is invited specifically on the need for and practical utility of this information collection, the accuracy of OGE's burden estimate, the enhancement of quality, utility and clarity of the information collected, and the minimization of burden (including the use of information technology). Comments received in response to this notice will be summarized for and included with the OGE request for extension of OMB paperwork approval. The comments will also become a matter of public record.

Approved: November 20, 2019.

Emory Rounds,

Director, U.S. Office of Government Ethics.

[FR Doc. 2019–25515 Filed 11–22–19; 8:45 am]

BILLING CODE 6345–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices (ACIP); Notice of Charter Amendment

This gives notice under the Federal Advisory Committee Act of October 6, 1972, that the Advisory Committee on Immunization Practices (ACIP), Centers for Disease Control and Prevention, Department of Health and Human Services, has amended their charter to include a non-voting liaison representative; American Immunization Registry Association. The amended filing date is October 22, 2019.

FOR FURTHER INFORMATION CONTACT: Amanda Cohn, M.D., Designated Federal Officer, Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention, Department of Health and Human Services, 1600 Clifton Road NE, Mailstop A27, Atlanta, Georgia 30329–4027, telephone (404) 639–6039, or fax (404) 315–4679.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–25468 Filed 11–22–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Health Statistics (BSC, NCHS)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Board of Scientific Counselors, National Center for Health Statistics BSC, NCHS. This meeting is open to the public; however, visitors must be processed in accordance with established federal policies and procedures. For foreign nationals or non-U.S. citizens, pre-approval is required (please contact Gwen Mustaf, 301–458–4500, *glm4@cdc.gov* or Sayeedha Uddin, 301–458–4303, *isx9@cdc.gov* at least 4 weeks in advance for requirements). All visitors are required to present a valid form of picture identification issued by a state, federal in international government. As required by the Federal Property Management Regulations, Title 41, Code of Federal Regulations, Subpart 101–20.301, all persons entering in or on Federal controlled property and their packages, briefcases, and other containers in their immediate possession are subject to being x-rayed and inspected. Federal law prohibits the knowing possession or the causing to be present of firearms, explosives and other dangerous weapons and illegal substances. The meeting room accommodates approximately 78 people.

DATES: The meeting will be held on January 9, 2020, 11:00 a.m.–5:30 p.m., EDT, and January 10, 2020, 8:30 a.m.–1:00 p.m., EDT.

ADDRESSES: NCHS Headquarters, 3311 Toledo Road, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Sayeedha Uddin, M.D., M.P.H., Executive Secretary, NCHS/CDC, Board of Scientific Counselors, 3311 Toledo Road, Room 2627, Hyattsville, Maryland 20782; telephone (301) 458–4303; email *isx9@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: This committee is charged with providing advice and making recommendations to the Secretary, Department of Health and Human

Services; the Director, CDC; and the Director, NCHS, regarding the scientific and technical program goals and objectives, strategies, and priorities of NCHS.

Matters To Be Considered: The agenda will include discussion on items per the scope of the Charter. Day One: The meeting agenda includes welcome remarks and a Center update by NCHS leadership; an update on Patient Centered Outcomes Research Trust Fund Projects; presentation of the Non-response Bias workgroup report; an update on National Health and Nutrition Examination Survey planning; and discussion on data modernization in NCHS. Day Two: The meeting agenda includes discussion of the future planning for the National Ambulatory Medical Care Survey and the National Survey of Family Growth; and an update on data presentation standards for rates for vital statistics. Agenda items are subject to change as priorities dictate.

Requests to make oral presentations should be submitted in writing to Gwen Mustaf, 301–458–4500, *glm4@cdc.gov,* or Sayeedha Uddin, 301–458–4303, *isx9@cdc.gov.* All requests must contain the name, address, telephone number, and organizational affiliation of the presenter. Written comments should not exceed five single-spaced typed pages in length and must be received by December 26, 2019.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–25467 Filed 11–22–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–IP20–003, Network of Modeling Centers to Improve Evidence Base for Seasonal and Pandemic Influenza Prevention and Control.

Date: February 25–26, 2020.

Time: 10:00 a.m.–5:00 p.m., EST.

Place: Teleconference, Centers for Disease Control and Prevention, Room 1080, 8 Corporate Square Boulevard, Atlanta, Georgia 30329–4027.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, 1600 Clifton Road NE, Mailstop US8–1, Atlanta, Georgia 30329–4027; telephone: (404) 718–8833; email: *gca5@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–25463 Filed 11–22–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—PAR 15–303, Occupational Safety and Health Education and Research Centers (ERC).

Date: February 24, 2020.

Time: 6:00 p.m.–8:00 p.m., EST.

Date: February 25–27, 2020.

Time: 8:30 a.m.–5:00 p.m., EST.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, Virginia 22314; telephone: (703) 837–0440.

Agenda: To review and evaluate grant applications.

For further information contact: Michael Goldcamp, Ph.D., Scientific Review Officer, Office of Extramural Programs, CDC, 1095 Willowdale Road, Morgantown, West Virginia 26505; telephone: (304) 285–5951; email: *mgoldcamp@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–25464 Filed 11–22–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—PAR 18–812, NIOSH Member Conflict.

Date: February 11, 2020.

Time: 1:00 p.m.–4:00 p.m., EST.

Place: Teleconference.

Agenda: To review and evaluate grant applications.

For further information contact: Nina Turner, Ph.D., Scientific Review Officer, Office of Extramural Programs, CDC, 1095 Willowdale Road, Morgantown, West Virginia 26506; telephone: (304) 285–5976; email: *nxt2@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–25454 Filed 11–22–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10224]

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 December 26, 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:* Healthcare Common Procedure Coding System (HCPCS)—Level II Code Modification Request Process; *Use:* In October 2003, the Secretary of Health and Human Services (HHS) delegated authority under the Health Insurance Portability and Accountability Act (HIPAA) legislation to Centers for Medicare and Medicaid Services (CMS) to maintain and distribute HCPCS Level II Codes. As stated in 42 CFR Sec. 414.40 (a) CMS establishes uniform national definitions of services, codes to represent services, and payment modifiers to the codes. The HCPCS code set has been maintained and distributed via modifications of codes, modifiers and descriptions, as a direct result of data received from applicants. Thus, information collected in the application is significant to codeset maintenance. The HCPCS code set maintenance is an ongoing process, as changes are implemented and updated annually; therefore, the process requires continual collection of information from applicants on an annual basis. As new technology evolves and new devices, drugs and supplies are introduced to the market, applicants submit applications

to CMS requesting modifications to the HCPCS Level II codeset. Applications have been received prior to HIPAA implementation and must continue to be collected to ensure quality decision-making. The HIPAA of 1996 required CMS to adopt standards for coding systems that are used for reporting health care transactions. The regulation that CMS published on August 17, 2000 (45 CFR 162.10002) to implement the HIPAA requirement for standardized coding systems established the HCPCS Level II codes as the standardized coding system for describing and identifying health care equipment and supplies in health care transactions. HCPCS Level II was selected as the standardized coding system because of its wide acceptance among both public and private insurers. Public and private insurers were required to be in compliance with the August 2000 regulation by October 1, 2002. Modifications to the HCPCS are initiated via application form submitted by any interested stakeholder. These applications have been received on an on-going basis with an annual deadline for each cycle. The purpose of the data provided is to educate the decision-making body about products and services for which a modification is requested so that an informed decision can be reached in response to the recommended coding.

Subsequent to the publication of the 60-day notice (84 FR 48145), we made minor clarifying edits to the information collection request. The edits are highlighted in a crosswalk document that is available for review along with the rest of the information collection request on the CMS PRA website. *Form Number:* CMS–10224 (OMB control number: 0938–1042); *Frequency:* Annually; *Affected Public:* Private Sector (Business or other for-profit and Not-for-profit institutions); *Number of Respondents:* 100; *Total Annual Responses:* 100; *Total Annual Hours:* 1,100. (For policy questions regarding this collection contact Kimberlee Combs Miller at 410–786–6707.)

Dated: November 20, 2019.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2019–25559 Filed 11–22–19; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Statement of Organization, Functions, and Delegations of Authority

Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS) (last amended at **Federal Register**, Vol. 75, No. 56, pp. 14176–14178, dated March 24, 2010; Vol. 76, No. 203, pp. 65197–65199, dated October 20, 2011; Vol. 78, No. 86, p. 26051, dated May 3, 2013; Vol. 79, No. 2, pp. 397–398, dated January 3, 2014; and Vol. 84, No. 32, p. 4470, dated February 15, 2019) is amended reflect the establishment of the Office of Program Operations and Local Engagement (OPOLE), and the abolishment of the Consortium for Medicare Health Plan Operations (CMHPO), the Consortium for Financial Management and Fee for Service Operations (CFMFFSO), and the Consortium for Quality Improvement and Survey and Certification Operations (CQISCO) to improve business alignment of the regional locations with the program components and improve local engagement with external stakeholders. The Center for Clinical Standards and Quality (CCSQ), Center for Medicaid and CHIP Services (CMCS), Chief Operating Officer (COO), Office of Communications (OC), Office of Financial Management (OFM), and the Office of Human Capital (OHC) were restructured to align audit management activities; change the reporting relationship of the Emergency Preparedness and Response Operations, and modernize CMS's approach to public and internal communications.

In the current structure, CMHPO and CFMFFSO serve as the local focal points for Medicare (both original Medicare and the Medicare Advantage and Part D Health Plans) and for the federally-facilitated exchanges, have been well-aligned with several program areas. The combination of the CMHPO and CFMFFSO functions under the new OPOLE structure will improve coordination across Medicare program lines and integrates communication and local engagement activities into a single structure that reports directly to the CMS Administrator, in alignment with the CMS program centers themselves.

CCSQ administers all quality, clinical, and medical science issues and survey and certification policies for CMS's programs. The regional employees who conduct the quality and safety surveys of facilities and oversee the enforcement of the quality and safety standards, as well as those who manage the quality improvement organizations will be fully integrated into CCSQ. The changes will improve business processes, leadership alignment, and customer focus, enabling CMS to unify its quality improvement, survey and enforcement activities while preserving its ability to consider local and state requirements. With this integration, CCSQ will be the agency's single point of contact for this work.

CMCS serves as CMS's focal point for assistance with formulation, coordination, integration, and implementation of all national program policies and operations relating to Medicaid, CHIP, and the Basic Health Program. The regional employees who work on Medicaid and CHIP were integrated into CMCS as a single operating unit. It has become clear that additional integration is needed to be successful. The new structure will improve efficiency, alignment, and coordination of Medicaid and CHIP policy and operational activities throughout the regional locations, and create a leaner, more integrated structure that aligns key areas requiring a higher degree of specialization, significantly improving stakeholder experiences. It will also allow for a tighter coordination between financial policy and operations and bolster a national approach to prioritizing efforts across the portfolio of Medicaid and CHIP activities.

The COO facilitates the coordination, integration and execution of CMS policies and activities across CMS components, including new program initiatives. The Emergency Preparedness and Response Operations function that currently reports into the regional organizational component, will report to the COO.

OC serves as CMS's focal point for internal and external strategic and tactical communications providing leadership for CMS in the areas of customer service; website operations; traditional and new media including web initiatives such as social media supported by innovative, increasingly mobile technologies; media relations; call center operations, consumer materials; public information campaigns; and, public engagement. The regional public affairs officers will report to OC to improve consistency of media engagement. Other parts of this component were restructured to successfully leverage technology and to strengthen the Agency commitment to advocates and professional partners.

The internal communications' work is moving from OHC to OC.

OFM serves as the Chief Financial Officer (CFO) and Comptroller for CMS. It manages the preparation and audit of CMS financial statements, and issues the annual Agency Financial Report, in accordance with the requirements of the CFO Act. The external audit management function is being realigned from the regional component that currently serves as the local focal point for original Medicare operations to OFM. This change will integrate agency-wide responsibility and management of both external and internal audits under the responsibility of the CMS CFO.

OHC administers CMS's special hiring authorities, diversity hiring initiatives, Delegated Examining authority and internal Merit Promotion program, and recruitment and retention programs, including negotiating base salary and any appropriate special hiring incentives.

Part F, Section FC. 10 (Organization) is revised as follows:

Office of the Administrator (FC)
Office of Program Operations and Local Engagement (FCY)
Office of Enterprise Data and Analytics (FCW)
Office of Human Capital (FCX)
Office of Equal Opportunity and Civil Rights (FCA)
Office of Communications (FCT)
Office of Legislation (FCC)
Federal Coordinated Health Care Office (FCQ)
Office of Minority Health (FCN)
Office of the Actuary (FCE)
Office of Strategic Operations and Regulatory Affairs (FCF)
Office of Financial Management (FCV)
Chief Operating Officer (FCM)
Center for Clinical Standards and Quality (FCG)
Center for Medicare and Medicaid Innovation (FCP)
Center for Medicare (FCH)
Center for Medicaid and CHIP Services (FCJ)
Center for Program Integrity (FCL)
Center for Consumer Information and Insurance Oversight (FCR)

Part F, Section FC. 20 (Functions) for each organization is as follows:

Office of Program Operations and Local Engagement

- Serves as the senior level point of contact within each Region for counterparts in CMS, Department leadership (including the HHS Regional Director), as well as external stakeholders. Creates and maintains regional location cohesion and leads regional efforts to improve employee engagement.
- Responsible for consistently and effectively implementing the Agency's local outreach strategy and messaging.
- Serves as the regional lead for environmental scanning and issue identification, systematically providing a regional perspective in advising the Office of the Administrator on national initiatives and their impact on program beneficiaries, consumers, key partners, and major constituents.
- Responsible for providing the regional voice in the Agency rural health strategy, advising on effective goals, tactics, and success metrics, and implementing the strategy at a local level.
- Serves as the regional focal point for emergency response management for employees in regional locations as well as coordinating the local response to emergencies in accordance with Agency Continuity of Operations, Disaster Recovery, and Emergency Response and Preparedness Operations protocols.
- Implements national policies and procedures to support and assure appropriate State implementation of the rules and processes governing group and individual health insurance markets and the sale of health insurance policies that supplement Medicare coverage.
- Provides Medicare health and drug plans with technical assistance to comply with program requirements, monitoring plan compliance with applicable statutes, regulations, and sub-regulatory guidance.
- Serves as the regional partner in the monitoring and oversight of Qualified Health Plans and Stand Alone Dental Plans operating in the federally-facilitated exchanges.
- Responds, handles and oversees resolution of inquiries and casework concerning Medicare beneficiary and federally-facilitated exchange consumer rights and protections, enrollment, eligibility, coverage and costs.
- Serves as the regional focal point for CMS interactions with Medicare Shared Savings Program Accountable Care Organizations (ACO) and innovation models.
- Serves as the regional focal point for CMS oversight of the Medicare Administrative Contractors' program and fiscal integrity function.
- Implements national policy for Medicare Parts A and B beneficiaries and health care providers.

Center for Clinical Standards and Quality

- Serves as the focal point for all quality, clinical, medical science issues, survey and certification, and policies for CMS's programs. Provides leadership and coordination for the development and implementation of a cohesive, CMS-wide approach to measuring and promoting quality and leads CMS's priority-setting process for clinical quality improvement. Coordinates quality-related activities with outside organizations. Monitors quality of Medicare, Medicaid, and the Clinical Laboratory and Improvement Amendments (CLIA). Evaluates the success of interventions.
- Identifies and develops best practices and techniques in quality improvement; implementation of these techniques will be overseen by appropriate components. Collaborates on demonstration projects to test and promote quality measurement and improvement.
- Develops, tests, evaluates, adopts and supports performance measurement systems (*i.e.,* quality measures) to evaluate care provided to CMS beneficiaries except for demonstration projects residing in other components.
- Assures that CMS's quality-related activities (survey and certification, technical assistance, beneficiary information, payment policies and provider/plan incentives) are fully and effectively integrated. Carries out the Health Care Quality Improvement Program for the Medicare, Medicaid, and CLIA programs.
- Oversees the planning, policy, coordination and implementation of the survey, certification and enforcement programs for all Medicare and Medicaid providers and suppliers, and for laboratories under the auspices of CLIA.
- Serves as CMS's lead for management, oversight, budget, and performance issues relating to the survey and certification program and the related interactions with the States.
- Leads in the specification and operational refinement of an integrated CMS quality information system, which includes tools for measuring the coordination of care between health care settings; analyzes data supplied by that system to identify opportunities to improve care and assess success of improvement interventions.
- Develops requirements of participation for providers and plans in the Medicare, Medicaid, and CLIA programs. Revises requirements based on statutory change and input from other components.
- Operates the Quality Improvement Organization and End-Stage Renal Disease Network program in conjunction with Regional Offices, providing policies and procedures, contract design, program coordination, and leadership in selected projects.
- Identifies, prioritizes and develops content for clinical and health related

aspects of CMS's Consumer Information Strategy; collaborates with other components to develop comparative provider and plan performance information for consumer choices.

• Prepares the scientific, clinical, and procedural basis for coverage of new and established technologies and services and provides coverage recommendations to the CMS Administrator. Coordinates activities of CMS's Technology Advisory Committee and maintains liaison with other departmental components regarding the safety and effectiveness of technologies and services; prepares the scientific and clinical basis for, and recommends approaches to, quality-related medical review activities of carriers and payment policies.

• Identifies new and innovative approaches and tests for improving quality programs and lowering costs.

Center for Medicaid and CHIP Services

• Serves as CMS's focal point for assistance with formulation, coordination, integration, and implementation of all national program policies and operations relating to Medicaid, CHIP, and the Basic Health Program (BHP).

• In partnership with States, assists State agencies in successfully carrying out their responsibilities for effective program administration and beneficiary protection, and, as necessary, supports States in correcting problems and improving the quality of their operations.

• Identifies and proposes modifications to Medicaid, CHIP, and BHP program measures, regulations, laws, and policies to reflect changes or trends in the health care industry, program objectives, and the needs of Medicaid, CHIP, and BHP beneficiaries. Collaborates with the Office of Legislation on the development and advancement of new legislative initiatives and improvements.

• Serves as CMS's lead for management, oversight, budget, and performance issues relating to Medicaid, CHIP, BHP and the related interactions with States and the stakeholder community.

• Coordinates with the Center for Program Integrity on the identification of program vulnerabilities and implementation of strategies to eliminate fraud, waste, and abuse.

• Leads and supports all CMS interactions and collaboration relating to Medicaid, CHIP, and BHP with States and local governments, territories, Indian tribes and tribal healthcare providers, key stakeholders (*e.g.,* consumer and policy organizations and the health care provider community) and other Federal government entities. Facilitates communication and disseminates policy and operational guidance and materials to all stakeholders and works to understand and consider their perspectives, support their efforts, and to develop best practices for beneficiaries across the country and throughout the health care system.

• Develops and implements a comprehensive strategic plan, objectives, and measures to carry out CMS's Medicaid, CHIP, and BHP mission and goals and positions the organization to meet future challenges with Medicaid, CHIP, and BHP.

Chief Operating Officer

• Overall responsibility for facilitating the coordination, integration and execution of CMS policies and activities across CMS components, including new program initiatives.

• Promotes accountability, communication, coordination, and facilitation of cooperative corporate decision-making among CMS senior leadership on management, operational and programmatic cross-cutting issues.

• Tracks and monitors CMS performance and intervenes, as appropriate, to ensure key milestones/deliverables are successfully achieved. Keeps the Administrator and Principal Deputy Administrator advised of the status of significant national initiatives and programs that affect beneficiaries and/or the health care industry and makes recommendations regarding necessary corrective actions.

• Oversees all planning, implementation and evaluation of administrative and operational activities for CMS, including enterprise-wide information systems and services, acquisition and grants, financial management, electronic health standards, facilities, and human resources.

Office of Communications

• Serves as CMS's focal point for internal and external strategic and tactical communications providing leadership for CMS in the areas of customer service; website operations; traditional and new media including web initiatives such as social media supported by innovative, increasingly mobile technologies; media relations; call center operations, consumer materials; public information campaigns; and, public engagement.

• Serves as senior advisor to the Administrator in all activities related to the media. Provides consultation, advice, and training to CMS's senior staff with respect to relations with the news media.

• Coordinates with external partners including the Department of Health and Human Services (HHS) and the White House on key communication and public engagement initiatives, leveraging CMS resources to strategically support these activities.

• Contributes to the formulation of policies, programs, and systems as related to strategic and tactical communications.

• Coordinates with the Office of Legislation on the development and advancement of new legislative initiatives and improvements.

• Oversees communications research, design and development, evaluation and continuous improvement activities for improving internal and external communication tools, including but not limited to brochures, public information campaigns, handbooks, websites, reports, presentations/briefings.

• Identifies communication best practices for the benefit of CMS beneficiaries (*i.e.,* of the Medicare and Medicaid programs) and other CMS customers.

• Formulates and implements a customer service plan that serves as a roadmap for the effective treatment and advocacy of customers and the quality of information provided to them.

• Oversees beneficiary and consumer call centers and provides leadership for CMS in the area of call center operations.

• Oversees all CMS interactions and collaborations with key stakeholders (external advocacy groups, contractors, local and State governments, HHS, the White House, other CMS components, and other Federal entities) related to the Medicare and Medicaid and other Agency programs.

• Coordinates stakeholder relations, community outreach, and public engagement with the CMS Regional Offices.

Office of Financial Management

• Serves as the Chief Financial Officer and Comptroller for CMS. Manages the preparation and audit of CMS financial statements, and issues the annual Agency Financial Report, in accordance with the requirements of the CFO Act.

• Formulates, presents and executes all CMS budget accounts; develops outlay plans and tracks contract and grant award amounts; acts as liaison with the Congressional Budget Office on budget estimates; reviews demonstration waivers (except 1115) for revenue neutrality. Is responsible for ensuring that the budget is formulated

in accordance with CMS's strategic plan and the Government Performance and Results Act (GPRA) goals and performance measures.

• Acts as liaison to the Department of Health and Human Services (HHS), Assistant Secretary for Financial Resources, Office of Management and Budget (OMB), and the Congressional appropriations committees for all matters concerning CMS's operating budget.

• Manages the Medicare financial management system, the Medicare contractors' budgets, Quality Improvement Organizations' budgets, research budgets, managed care payments, the issuance of State Medicaid grants, and the funding of the State survey/certification and the Clinical Laboratory and Improvement Act programs. Is responsible for all CMS disbursements.

• Maintains CMS financial data and prepares external reports to other agencies such as HHS, Treasury, OMB, Internal Revenue Service, General Services Administration, related to CMS's obligations, expenditures, prompt payment activities, debt and cash management, and other administrative functions.

• Performs cash management activities and establishes and maintains systems to control the obligation of funds and ensure that the Anti-Deficiency Act is not violated.

• Manages the Medicare Secondary Payer Program and Medicare Debt Resolution activities.

• Develops CMS policies governing both Medicare Secondary Payer and Medicaid Third Party Liability.

• Oversees the Medicare fee-for-service and the Medicaid and CHIP improper payment measurement programs to measure payment accuracy.

• Develops and publishes the Medicare Fee-For-Service, Medicaid, and Children's Health Insurance Error Rate. Develops improper payment measurement methodologies to report related Marketplaces and related programs.

• Manages, develops, and enhances CMS's core financial management system, the Healthcare Integrated General Ledger Accounting System (HIGLAS), which tracks the financial activity and transactions of all of CMS's programs.

• Manages the development to maintain information technology program systems that support accounting operations, for the Medicare Benefits, Medicare Secondary Payer, Marketplace, Medicaid, CHIP Grants, and Administrative Program Accounting lines of business.

• Coordinates the development and monitoring of all audit corrective action plans and the Office of the Inspector General (OIG) clearance documents that address each OIG and the Government Accountability Office agreed upon recommendations.

• Develops an enterprise risk assessment program to better support CMS programs.

• Works collaboratively with components and contracting officials to review contract language and contract cost estimates in order to develop contract-specific performance and financial information.

• Coordinates performance management and promotes the use of Agency performance measures to foster a more results-orientated performance culture through CMS.

• Ensures compliance with a number of agency performance requirements such as GPRA and the GPRA Modernization Act, OMB program analysis and the Department strategic plan priorities.

Office of Human Capital

• Administers CMS's special hiring authorities, diversity hiring initiatives, Delegated Examining authority and internal Merit Promotion program, and recruitment and retention programs, including negotiating base salary and any appropriate special hiring incentives.

• Collects, analyzes and coordinates strategic planning data for use by CMS for recruitment purposes. Uses data to focus recruitment efforts.

• Provides leadership for the development and implementation of CMS Leadership and Management Development Programs. Coordinates management development activities with the Leadership Development and Recognition Board.

• Manages and oversees CMS learning management systems and coordinates with DHHS on department-wide courses.

• Administers plans, develops, directs, coordinates and evaluates Agency-wide management programs, performance management, delegations of authority, and position management. Ensures program operations are compliant with federal regulations and Departmental requirements and guidance, and develops and implements guidance and educational tools to support successful administration of these programs.

• Provides oversight of collective bargaining agreements and provision of advisory services to CMS managers. Conducts negotiations on behalf of management and/or advises management on the conduct of labor-management negotiations. Coordinates and develops CMS-wide policy regarding the development, implementation, and evaluation of labor relations' activities.

• Provides managers and senior Agency officials (in accordance with Federal Service Labor-Management Relations statue(s), and Master Labor Agreement) with advice and assistance on activities associated with labor management relations, including but not limited to bargaining unit status determinations, unfair labor practices, negotiability issues, workplace changes affecting bargaining unit employees, and case work associated with labor relations activities, (*e.g.,* grievances).

• Develops and coordinates the policies and procedures necessary to implement the CMS Ethics Program. Provides advice and guidance to the CMS Deputy Ethics Counselor (DEC) concerning all issues that must be considered by the DEC.

Authority: 44 U.S.C. 3101.

Dated: November 18, 2019.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2019–25426 Filed 11–20–19; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3379–FN]

Medicare and Medicaid Programs; Continued Approval of the Accreditation Commission for Health Care Accreditation Program

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Final notice.

SUMMARY: This final notice announces our decision to approve the Accreditation Commission for Health Care (ACHC) for continued recognition as a national accrediting organization for hospices that wish to participate in the Medicare or Medicaid programs. A hospice that participates in Medicaid must also meet the Medicare conditions for participation.

DATES: This final notice is effective November 27, 2019 through November 27, 2025.

FOR FURTHER INFORMATION CONTACT: Lillian Williams, (410) 786–8636, or Joann Fitzell, (410) 786–4280.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in a hospice provided certain requirements are met by the hospice. Section 1861(dd) of the Social Security Act (the Act) establishes distinct criteria for facilities seeking designation as a hospice. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 418 specify the conditions that a hospice must meet in order to participate in the Medicare program, the scope of covered services and the conditions for Medicare payment for hospices.

Generally, to enter into an agreement, a hospice must first be certified as complying with the conditions set forth in part 418 and recommended to the Center for Medicare & Medicaid (CMS) for participation by a state survey agency. Thereafter, the hospice is subject to periodic surveys by a state survey agency to determine whether it continues to meet these conditions. However, there is an alternative to certification surveys by state agencies. Accreditation by a nationally recognized Medicare accreditation program approved by CMS may substitute for both initial and ongoing state review.

Section 1865(a)(1) of the Act provides that, if the Secretary of the Department of Health and Human Services (the Secretary) finds that accreditation of a provider entity by an approved national accrediting organization meets or exceeds all applicable Medicare conditions, CMS may treat the provider entity as having met those conditions, that is, may ''deem'' the provider entity to be in compliance. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

If an accrediting organization is recognized by the Secretary as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting organization's approved program may be deemed to meet the Medicare conditions. A national accrediting organization applying for CMS approval of their accreditation program under 42 CFR part 488, subpart A, must provide CMS with reasonable assurance that the accrediting organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of accrediting organizations are set forth at § 488.5. Section 488.5(e)(2)(i) requires accrediting organizations to reapply for continued approval of its Medicare accreditation program every 6 years or sooner as determined by CMS. The Accreditation Commission for Health Care (ACHC'S) term of approval as a recognized accreditation program for its hospice accreditation program expires November 27, 2019.

II. Application Approval Process

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of applications for CMS-approval of an accreditation program is conducted in a timely manner. The Act provides us 210 days after the date of receipt of a complete application to publish notice in the **Federal Register** of approval or denial of the application. The Act also states within 60 days after receiving a complete application, we must publish a notice in the **Federal Register** that identifies the national accrediting body making the request, describes the request, and provides no less than a 30-day public comment period.

III. Provisions of the Proposed Notice

In the June 28, 2019 **Federal Register** (84 FR 31068), we published a proposed notice announcing ACHC's request for continued approval of its Medicare hospice accreditation program. In the June 28, 2019 proposed notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and in our regulations at § 488.5, we conducted a review of ACHC's Medicare hospice accreditation application in accordance with the criteria specified by our regulations, which include, but are not limited to the following:

- An onsite administrative review of ACHC's: (1) Corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its hospice surveyors; (4) ability to investigate and respond appropriately to complaints against accredited hospices; and (5) survey review and decision-making process for accreditation.
- The comparison of ACHC's Medicare hospice accreditation program standards to CMS's current Medicare hospice conditions of participation.
- A documentation review of ACHC's survey process to—

++ Determine the composition of the survey team, surveyor qualifications, and ACHC's ability to provide continuing surveyor training.

++ Compare ACHC's processes to those we require of state survey agencies, including periodic resurvey and the ability to investigate and respond appropriately to complaints against accredited hospices.

++ Evaluate ACHC's procedures for monitoring hospices it has found to be out of compliance with ACHC's program requirements. (This pertains only to monitoring procedures when ACHC identifies non-compliance. If noncompliance is identified by a state survey agency through a validation survey, the state survey agency monitors corrections as specified at § 488.9(c))

++ Assess ACHC's ability to report deficiencies to the surveyed hospice and respond to the hospice's plan of correction in a timely manner.

++ Establish ACHC's ability to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

++ Determine the adequacy of ACHC's staff and other resources.

++ Confirm ACHC's ability to provide adequate funding for performing required surveys.

++ Confirm ACHC's policies with respect to surveys being unannounced.

++ ACHC's policies and procedures to avoid conflicts of interest, including the appearance of conflicts of interest, involving individuals who conduct surveys or participate in accreditation decisions.

++ Obtain ACHC's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

In accordance with section 1865(a)(3)(A) of the Act, the June 28, 2019 proposed notice also solicited public comments regarding whether ACHC's requirements met or exceeded the Medicare CoPs for hospices. No comments were received in response to the proposed notice.

IV. Provisions of the Final Notice

A. Differences Between ACHC's Standards and Requirements for Accreditation and Medicare Conditions and Survey Requirements

We compared ACHC's hospice accreditation requirements and survey process with the Medicare CoPs of part 418, and the survey and certification process requirements of parts 488 and 489. Our review and evaluation of ACHC's hospice application, which were conducted as described in section III of this final notice, yielded the following areas where, as of the date of this notice, ACHC has completed revising its standards and certification processes in order to meet the requirements at:

• § 418.56(c)(2), to address the requirement the frequency of services necessary to meet the specific patient and family needs.

• § 418.110(c)(1), to require an inpatient hospice to address real or potential threats to the health and safety of the patients, others, and property.

• § 418.110)(d)(1)(i), to address the requirement that hospice must meet applicable provisions and must proceed in accordance with the Life Safety Code (National Fire Protection Association (NFPA) 101 and Tentative Interim amendments TIA 12–1, TIA 12–2, TIA 12–3 and TIA 12–4.)

• § 418.110(d)(5), to address the requirement when a sprinkler system is shut down for more than 10 hours.

• § 418.110(d)(5)(i), to address the requirement to evacuate the building or portion of the building affected by the system outage until the system is back in service.

• § 418.110(d)(5)(ii), to address the requirement to establish a fire watch until the system is back in service.

• § 418.110(d)(6), to require both existing and new buildings to have an outside window or door in every sleeping room and, for any building constructed after July 5, 2016, to require that the sill height must not exceed 36 inches above the floor.

• § 418.110(e), to address the requirement that except as otherwise provided in this section, the hospice must meet the applicable provisions and must proceed in accordance with the Health Care Facilities Code (NFPA 99 and Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6).

• § 418.11(e)(1), to address the requirement that Chapters 7, 8, 12, and 13 of the adopted Health Care Facilities Code do not apply to a hospice.

• § 418.110(e)(2), to address the requirement that if application of the Health Care Facilities Code required under paragraph (e) of this section would result in unreasonable hardship for hospice, CMS may waive specific provisions of the Health Care Facilities Code, but only if the waiver does not adversely affect the health and safety of patients.

• § 418.110(q) through § 418.110(q)(1)(xi), address the requirement that the standards incorporated by reference in this section are approved for incorporation by reference by the Director of the Office of the Federal Register in accordance with 5 U.S.C 552(a) and 1 CFR part 51.

B. Term of Approval

Based on our review and observations described in section III of this final notice, we approve ACHC as a national accreditation organization for hospices that request participation in the Medicare program, effective November 27, 2019 through November 27, 2025.

V. 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 (44 U.S.C. 35 *et seq.*).

Dated: November 5, 2019.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2019–25429 Filed 11–22–19; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3390–PN]

Medicare Program; Application From Accreditation Commission for Health Care for Initial CMS-Approval of Its Home Infusion Therapy Accreditation Program

AGENCY: Centers for Medicare and Medicaid Services, HHS.

ACTION: Notice with request for comment.

SUMMARY: This proposed notice acknowledges the receipt of an application from Accreditation Commission for Health Care for initial recognition as a national accrediting organization for suppliers of home infusion therapy services that wish to participate in the Medicare program. The statute requires that within 60 days of receipt of an organization's complete application, the Centers for Medicare & Medicaid Services (CMS) publish a notice that identifies the national accrediting body making the request, describes the nature of the request, and provides at least a 30-day public comment period.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on December 26, 2019.

ADDRESSES: In commenting, please refer to file code CMS–3390–PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3390–PN, P.O. Box 8016,Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3390–PN, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Christina Mister-Ward, (410)786–2441 Lillian Williams, (410)786–8636.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov* . Follow the search instructions on that website to view public comments.

I. Background

Home infusion therapy (HIT) is a treatment option for Medicare beneficiaries with a wide range of acute and chronic conditions. Section 5012 of the 21st Century Cures Act (Pub. L. 114–255, enacted December 13, 2016) added section 1861(iii) to the Social Security Act (the Act), establishing a new Medicare benefit for HIT services. Section 1861(iii)(1) of the Act defines ''home infusion therapy'' as professional services, including nursing services; training and education not otherwise covered under the Durable Medical Equipment (DME) benefit; remote monitoring; and other monitoring services. Home infusion therapy must be furnished by a qualified HIT supplier and furnished in the individual's home. The individual must:

• Be under the care of an applicable provider (that is, physician, nurse practitioner, or physician assistant); and

• Have a plan of care established and periodically reviewed by a physician in coordination with the furnishing of home infusion drugs under Part B, that prescribes the type, amount, and duration of infusion therapy services that are to be furnished.

Section 1861(iii)(3)(D)(i)(III) of the Act requires that a qualified HIT supplier be accredited by an accrediting organization (AO) designated by the Secretary in accordance with section 1834(u)(5) of the Act. Section 1834(u)(5)(A) of the Act identifies factors for designating AOs and in reviewing and modifying the list of designated AOs. These statutory factors are as follows:

• The ability of the organization to conduct timely reviews of accreditation applications.

• The ability of the organization take into account the capacities of suppliers located in a rural area (as defined in section 1886(d)(2)(D) of the Act).

• Whether the organization has established reasonable fees to be charged to suppliers applying for accreditation.

• Such other factors as the Secretary determines appropriate.

Section 1834(u)(5)(B) of the Act requires the Secretary to designate AOs to accredit HIT suppliers furnishing HIT not later than January 1, 2021. Section 1861(iii)(3)(D)(i)(III) of the Act requires a ''qualified home infusion therapy supplier'' to be accredited by a CMS-approved AO, under section 1834(u)(5) of the Act.

On March 1, 2019, we published a solicitation notice entitled, ''Medicare Program; Solicitation of Independent Accrediting Organizations To Participate in the Home Infusion Therapy Supplier Accreditation Program'' (84 FR 7057). This notice informed national AOs that accredit HIT suppliers of an opportunity to submit applications to participate in the HIT supplier accreditation program. We stated that complete applications would be considered for the January 1, 2021 designation deadline if received by February 1, 2020.

Regulations for the approval and oversight of AOs for HIT organizations are located at 42 CFR part 488, subpart L. The requirements for HIT suppliers are located at 42 CFR part 486, subpart I.

II. Approval of Accreditation Organizations

Section 1834(u)(5) of the Act and the regulations at § 488.1010 require that our findings concerning review and approval of a national AO's requirements consider, among other factors, the applying AO's requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide CMS with the necessary data.

Section 488.1020(a) requires that we publish, after receipt of an organization's complete application, a notice identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. In accordance with § 488.1010(d), we have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

The purpose of this proposed notice is to inform the public of Accreditation Commission for Health Care's (ACHC's) initial request for CMS's approval of its HIT accreditation program. This notice also solicits public comment on whether ACHC's requirements meet or exceed the Medicare conditions of participation for HIT services.

III. Evaluation of Deeming Authority Request

ACHC submitted all the necessary materials to enable us to make a determination concerning its request for initial approval of its HIT accreditation program. This application was determined to be complete on September 26, 2019. Under section 1834(u)(5) of the Act and § 488.1010 (Application and re-application procedures for national HIT AOs), our review and evaluation of ACHC will be conducted in accordance with, but not necessarily limited to, the following factors:

• The equivalency of ACHC's standards for HIT as compared with CMS' HIT conditions for certification.

• ACHC's survey process to determine the following:

++ The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.

++ The comparability of ACHC's to CMS standards and processes, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

++ ACHC's processes and procedures for monitoring a HIT supplier found out of compliance with ACHC's program requirements. .

++ ACHC's capacity to report deficiencies to the surveyed supplier and respond to the supplier's plan of correction in a timely manner.

++ ACHC's capacity to provide CMS with electronic data and reports necessary for effective assessment and interpretation of the organization's survey process.

++ The adequacy of ACHC's staff and other resources, and its financial viability.

++ ACHC's capacity to adequately fund required surveys.

++ ACHC's policies with respect to whether surveys are announced or unannounced, to assure that surveys are unannounced.

++ ACHC's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as CMS may require (including corrective action plans).

• ACHC's agreement or policies for voluntary and involuntary termination of suppliers.

• ACHC agreement or policies for voluntary and involuntary termination of the HIT AO program.

• ACHC's policies and procedures to avoid conflicts of interest, including the appearance of conflicts of interest, involving individuals who conduct surveys or participate in accreditation decisions.

IV. Collection of Information Requirements

This document does not impose information collection and 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 (44 U.S.C. 3501 *et seq*).

V. Response to Public Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a final notice in the **Federal Register** announcing the result of our evaluation.

Dated: November 4, 2019.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2019–25430 Filed 11–22–19; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Form ACF–196, TANF Financial Reporting Form for States

AGENCY: Office of Family Assistance; Administration for Children and Families; HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting to renew approval of the ACF–196 Temporary Assistance for Needy Families (TANF) Financial Reporting Form. The ACF–196 is the form used by states to estimate funding needs and request grant awards under the TANF program. In addition, the form is used to report data in substantiation of state claims and to certify the availability of the legislatively mandated state match. ACF will use the financial data provided by states to estimate quarterly funding needs, calculate award amounts, and assess compliance with statutory and regulatory requirements relating to administrative costs and state matching requirements. No changes are proposed to the form.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation (OPRE), 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: This information collection is authorized under Section 411(a)(3) of the Social Security Act. This request is for renewal of approval to the ACF–196 form for periodic financial reporting under the TANF program. States participating in the TANF program are required by statute to report financial data on a quarterly basis. This form meets the legal standard and provides essential data on the use of federal funds. Failure to collect the data would seriously compromise ACF's ability to monitor program expenditures, estimate funding needs, and to prepare budget submissions required by Congress. Financial reporting under the TANF program is governed by 45 CFR part 265.

Respondents: TANF Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
ACF–196	51	4	10	2,040

Estimated Total Annual Burden Hours: 2,040.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: U.S.C. Section 402 of the Social Security Act (42 U.S.C. 602).

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2019–25432 Filed 11–22–19; 8:45 am]

BILLING CODE 4184–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–3592]

Certificates of Confidentiality; Draft Guidance for Sponsors, Sponsor-Investigators, Researchers, Industry, and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance entitled ''Certificates of Confidentiality; Guidance for Sponsors, Sponsor-Investigators, Researchers, Industry, and Food and Drug Administration Staff.'' This draft guidance is intended to explain FDA implementation of the revised statutory provisions applicable to the request for, and issuance of, a Certificate of Confidentiality (CoC). The 21st Century Cures Act (Cures Act) amended the statutory provisions relating to the issuance of CoCs. A CoC is intended to help protect the privacy of human subject research participants from whom sensitive and identifiable information is being collected or used in furtherance of the research. Historically, a CoC generally protected a researcher from being compelled in a legal proceeding to disclose identifiable sensitive information about the research participant, created or compiled for the research. As amended, a CoC prohibits a researcher from disclosing such information unless a specified exception applies.

DATES: Submit either electronic or written comments on the draft guidance by January 9, 2020 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance. Submit electronic or written comments on the proposed information collection burden in the draft guidance by January 24, 2020.

ADDRESSES: You may submit either electronic or written comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–D–3592 for ''Certificates of Confidentiality; Guidance for Sponsors, Sponsor-Investigators, Researchers, Industry, and Food and Drug Administration Staff.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this draft guidance to the Office of Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 4248, Silver Spring, MD 20993–0002. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

With regard to the draft guidance: Jarilyn Dupont, Office of Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 4248, Silver Spring, MD 20993–0002, 301–796–4850.

With regard to the proposed collection of information: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance to explain FDA's proposed implementation of the revised provisions applicable to the request for, and issuance of, a discretionary CoC. The Cures Act (Pub. L. 114–255, section 2012) amended the Public Health Service Act, section 301(d) (42 U.S.C. 241(d)), relating to the issuance of CoCs. A CoC is intended to help protect the privacy of human subject research participants from whom identifiable, sensitive information is being collected or used in furtherance of the research. Historically, a CoC generally protected a researcher from being compelled in a legal proceeding (such as by subpoena or court order) to disclose identifiable and sensitive information about the research participant, created or compiled for purposes of the human subject research. The Cures Act broadened the protections of the statutory provision by affirmatively prohibiting holders of CoCs from disclosing such information unless a specific exception applies.

The Cures Act simplified certain aspects of the issuance of CoCs by requiring that CoCs be issued for federally funded human subject research that collects or uses identifiable, sensitive information (referred to in the draft guidance as mandatory CoCs). For non-federally funded research, issuance of CoCs is not required but may be issued at the discretion of FDA (referred to in the draft guidance as discretionary CoCs) when the study involves a product subject to FDA's jurisdiction and regulatory authority. FDA intends to continue receiving such requests and will issue discretionary CoCs as appropriate. This draft guidance is intended to provide information on how to request a discretionary CoC, the statutory requirements for requesting such a CoC, and the statutory responsibilities associated with possessing a CoC. Although the mandatory CoC and the discretionary CoC are issued under different processes, the protections afforded by the issuance of either CoC are identical and the statutory responsibilities are applicable to both.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance represents the current thinking of FDA on ''Certificates of Confidentiality; Guidance for Sponsors, Sponsor-Investigators, Researchers, Industry, and Food and Drug Administration Staff.'' It does not establish any rights for any person and

is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Protection of Human Subjects

OMB Control Number 0910–0755—Revision

CoCs are intended to help protect the privacy of human subject research participants from whom identifiable, sensitive information is being collected in furtherance of the research. A CoC generally protects a researcher from being compelled to disclose identifiable sensitive information about the research participant, created or compiled for purposes of the human subject research. The holder of the CoC may not disclose such information unless a specified exception applies. For non-federally funded research, issuance of CoCs is not required but may be issued at the discretion of FDA (discretionary CoCs) when the study involves a product subject to FDA's jurisdiction and regulatory authority. The draft guidance is intended to provide information on how to request a discretionary CoC, the statutory requirements for requesting such a CoC, and the statutory responsibilities associated with possessing a CoC. We already receive such CoC requests and will issue discretionary CoCs as appropriate. As discussed in the draft guidance, to help ensure that discretionary CoCs are issued to those entities who can comply with the requirements of the statutory provision, we recommend that only sponsors or sponsor-investigators submit requests for discretionary CoCs (as defined in 21 CFR 50.3, 312.3, and 812.3) (*i.e.,* the individual who takes responsibility for or initiates the clinical investigation). This will help eliminate duplicative requests to FDA for the same human subject research. Accordingly, we are revising the information collection approved under OMB control number 0910–0755 (Protection of Human Subjects) to include the additional information collection elements recommended in the draft guidance.

A. Descriptive Information

To facilitate our review and expedite consideration of a discretionary CoC request, sponsors, sponsor-investigators, or the authorized representative should include descriptive information in their submission. The information is listed below and in ''Section IV. Request for Discretionary CoCs From FDA'' of the draft guidance.

- Sponsor or Sponsor-Investigator Name or authorized representative (*e.g.,* the individual who takes responsibility for or initiates the clinical investigation).
- Sponsor or Sponsor-Investigator or authorized representative Address (same as on file with FDA).
- Sponsor or Sponsor-Investigator or authorized representative email address.
- FDA Application Number, as available (*e.g.,* IND/NDA/BLA/IDE/HDE/PMA/PMTA/ITP).[1]
- *ClinicalTrials.gov* numerical identifier (if applicable) (number provided upon registration on *www.ClinicalTrials.gov*).
- Title of research.
- If conducting human subject research that is subject to FDA's jurisdiction but the sponsor or sponsor-investigator is exempt from submitting an application (*e.g.,* IND/IDE), submit all of the above information, with the exception of the FDA application number.
- Signature of Sponsor, Sponsor-Investigator, or authorized representative who submits the CoC request.

B. Assurances

Sponsors, sponsor-investigators, and authorized representatives who receive a CoC must also comply with the statutory provisions for CoCs to protect the confidentiality of identifiable, sensitive information that is collected or used for purposes of the research. Such requestors of a CoC should include the following assurances in their submission as described in detail in ''Section IV. Request for Discretionary CoCs From FDA'' of the draft guidance.

- The requestor is engaged in biomedical, behavioral, clinical, or other research, in which identifiable, sensitive information is collected or used.
- The research involves a product subject to FDA's jurisdiction and regulatory authority.
- The requestor will be responsible for complying with the requirements to protect the confidentiality of identifiable, sensitive information collected or used in biomedical, behavioral, clinical, or other research.
- The requestor will not disclose in any legal proceeding or to any other individual unless the requestor has the individual's consent or provide the name of an individual or any such information, document, or biospecimen that contains identifiable, sensitive information about the individual and that was created or compiled for purposes of the research.

The requestor understands and agrees that disclosure is permitted by the recipient of a CoC only when required by Federal, State, or local laws, or it is:

  - Necessary for the medical treatment of the individual to whom the information, document, or biospecimen pertains and made with the consent of such individual;
  - Made with the consent of the individual to whom the information, document, or biospecimen pertains; or
  - Made for the purposes of other scientific research that complies with applicable Federal regulations governing the protection of human subjects in research.

- The requestor understands that the identifiable sensitive information collected by a researcher to whom a certificate is issued and all copies thereof, shall be subject to the

[1] Investigational New Drug Application/New Drug Application/Biologics License Application/Investigational Device Exemption/Humanitarian Device Exemption/Premarket Application/Premarket Tobacco Product Application/Investigational Tobacco Product.

protections afforded by this section for perpetuity.

Based on the number of CoC requests we have received prior to the Cures Act, we estimate receiving approximately 150 discretionary CoC requests annually. We estimate that approximately 150 sponsors, sponsor-investigators, or authorized representatives will submit requests. Preparing and sending each request would take approximately 2 hours.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Draft guidance for sponsors, sponsor-investigators, researchers, industry, and FDA staff on CoCs	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Submissions of CoC Requests From Sponsors, Sponsor-Investigators, or Authorized Representatives	150	1	150	2	300

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Regulatory Information/Guidances/default.htm* or *https://www.regulations.gov*.

Dated: November 20, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–25551 Filed 11–22–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Biodefense Science Board: Public Meeting

AGENCY: Office of the Assistant Secretary for Preparedness and Response (ASPR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The HHS Office of the Secretary is hosting the National Biodefense Science Board (NBSB) Public Meeting in Washington, DC, December 3, 2019. The purpose of the meeting is to gather information to develop expert advice provided by NBSB and guidance to the Secretary on scientific, technical, and other matters of special interest to HHS regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate. Retiring NBSB board members will also be presented with certificates and a signed letter of appreciation.

DATES: The NBSB Public Meeting is being held December 3, 2019, from 10:30 a.m. to 4:30 p.m. Eastern Daylight Time (EDT).

ADDRESSES: Please visit the NBSB website (*https://www.phe.gov/nbsb*) for all additional information regarding the NBSB or meeting details.

FOR FURTHER INFORMATION CONTACT: CAPT Christopher Perdue, MD, MPH, Designated Federal Official, NBSB, ASPR, HHS; 202–401–5837; *christopher.perdue@hhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 319M of the Public Health Service Act, HHS has established the NBSB to provide expert advice and guidance to the Secretary on scientific, technical, and other matters of special interest to HHS regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate.

Availability of Materials: Participants are encouraged to visit the NBSB website (*http://www.phe.gov/nbsb*) for information about the meeting, including the agenda.

Procedures for Providing Public Input: Members of the public are encouraged to go to the NBSB website (*http://www.phe.gov/nbsb*) for instructions about the submission of written comments.

Dated: November 20, 2019.

Robert P. Kadlec,

Assistant Secretary for Preparedness and Response.

[FR Doc. 2019–25544 Filed 11–22–19; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Advisory Committee to the Director, National Institutes of Health, December 12, 2019, 9:00 a.m. to December 13, 2019, 1:00 p.m., NIH, Building 1, Wilson Hall, 1 Center Drive, Bethesda, MD 20892 which was published in the **Federal Register** on May 2, 2019, 84 FR 18853.

The meeting notice is amended to add an additional agenda topic entitled, NIH Wide Strategic Plan for Fiscal Years 2021–2025. The meeting is open to the public.

Dated: November 19, 2019.

Natasha M. Copeland,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–25478 Filed 11–22–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine Notice of Closed Meetings

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 materials, 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 Library of Medicine Special Emphasis Panel; COI/Career Award.

Date: March 19, 2020.

Time: 11:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine/Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Yanli Wang, Ph.D., Scientific Review Officer, Division of Extramural Programs, National Library of Medicine, NIH, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892–7968, 301–827–7092, *yawang@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library

Assistance, National Institutes of Health, HHS)

Dated: November 20, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–25561 Filed 11–22–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, November 21, 2019, 8:00 a.m. to November 22, 2019 4:00 p.m., at the Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814 which was published in the **Federal Register** on November 04, 2019, 84 FR 59392.

The meeting will be held for one day November 21, 2019 starting at 8:00 a.m. and ending at 8:00 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: November 19, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–25479 Filed 11–22–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Microbiology, Infectious Diseases and AIDS Initial Review Group Acquired Immunodeficiency Syndrome Research Review Committee AIDSRPC, December 3–4, 2019 from 10:00 a.m. to 5.00 p.m., National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20852 which was published in the **Federal Register** on February 19, 2019, 84 FR 4834.

This meeting notice is amended to change the meeting date from December 3–4, 2019 to December 12, 2019 at the National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20852. The meeting is open to the public.

Dated: November 19, 2019.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–25480 Filed 11–22–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2019–0608]

Cooperative Research and Development Agreement—Cloud Suitability of Radio Frequency (RF) Communications Capabilities

AGENCY: Coast Guard, DHS.

ACTION: Notice of intent; request for comments.

SUMMARY: The Coast Guard announces its intent to enter into a cooperative research and development agreement (CRADA) with several companies to evaluate the suitability of implementing Radio Frequency (RF) communications capabilities as virtualized services in a commercial cloud/Secure Cloud Computing Architecture (SCCA) environment. This CRADA would leverage CG network infrastructure, DISA Cloud Access Points (CAPs) and commercial cloud offerings to evaluate RF detection, processing, recording and distribution services. The CRADA will explore communication services that are developed to leverage virtualization and cloud hosting environments under a variety of scenarios. The Coast Guard is currently considering partnering with General Dynamics Mission Systems (GDMS) and solicits public comment on the possible participation of other parties in the proposed CRADA, and the nature of that participation. The Coast Guard also invites other potential non-Federal participants, who have the interest and capability to bring similar contributions to this type of research, to consider submitting proposals for consideration in similar CRADAs.

DATES: Comments must be submitted to the online docket via *https://www.regulations.gov,* or on or before December 26, 2019.

Synopses of proposals regarding future CRADAs must reach the Coast Guard (see **FOR FURTHER INFORMATION CONTACT**) on or before December 26, 2019.

ADDRESSES: Submit comments online at *https://www.regulations.gov* by searching docket number ''USCG–2019–0608'' and following website instructions.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice or wish to submit proposals for future CRADAs, contact LCDR Grant Wyman, Project Official, IT and Networks Branch, U.S. Coast Guard Research and Development Center, 1 Chelsea Street, New London, CT 06320, telephone 860–271–2727, email *Grant.C.Wyman@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We request public comments on this notice. Although we do not plan to respond to comments in the **Federal Register**, we will respond directly to commenter and may modify our proposal in light of comments.

Comments should be marked with docket number USCG–2019–0608 and should provide a reason for each suggestion or recommendation. You should provide personal contact information so that we can contact you if we have questions regarding your comments; but please note that all comments will be posted to the online docket without change and that any personal information you include can be searchable online (see the **Federal Register** Privacy Act notice regarding our public dockets, 73 FR 3316, Jan. 17, 2008). We also accept anonymous comments.

We encourage you to submit comments through the Federal rulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the Coast Guard using the **FOR FURTHER INFORMATION CONTACT** section of this notice. Documents mentioned in this notice and all public comments, are 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.

You may submit detailed proposals for future CRADAs directly to the Coast Guard using the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Discussion

CRADAs are authorized under 15 U.S.C. 3710(a).[1] A CRADA promotes the transfer of technology to the private

[1] The statute confers this authority on the head of each Federal agency. The Secretary of DHS's authority is delegated to the Coast Guard and other DHS organizational elements by DHS Delegation No. 0160.1, para. II.B.34.

sector for commercial use, as well as specified research or development efforts that are consistent with the mission of the Federal parties to the CRADA. The Federal party or parties agree with one or more non-Federal parties to share research resources, but the Federal party does not contribute funding.

CRADAs are not procurement contracts. Care is taken to ensure that CRADAs are not used to circumvent the contracting process. CRADAs have a specific purpose and should not be confused with procurement contracts, grants, and other type of agreements.

Under the proposed CRADA, the Coast Guard's Research and Development Center (RDC) will collaborate with one or more non-Federal participants. Together, the RDC and the non-Federal participants will evaluate cloud suitability of Radio Frequency (RF) communications to learn best practices for implementing RF communications in a cloud environment.

We anticipate that the Coast Guard's contributions under the proposed CRADA will include the following:

(1) Develop a test plan for execution under the CRADA;

(2) Provide commercial cloud or government cloud access, data, facilities, and approvals required for work under the CRADA;

(8) Collect and analyze test plan data; and

(9) Develop a report documenting the methodologies, findings, conclusions, and recommendations related to this CRADA work.

We anticipate that the non-Federal participants' contributions under the proposed CRADA will include the following:

(1) Provide cloud ready RF services to conduct work to be described in test plan;

(2) Provide required operators and technicians to perform work identified in the test plan;

(3) Provide technical data for the RF cloud services to be utilized;

(4) Provide shipment and delivery of any RF cloud services ancillary equipment required;

(5) Provide travel and associated personnel and other expenses as required for subject work.

The Coast Guard reserves the right to select for CRADA participants all, some, or no proposals submitted for this CRADA. The Coast Guard will provide no funding for reimbursement of proposal development costs. Proposals and any other material submitted in response to this notice will not be returned. Proposals submitted are expected to be unclassified and have no more than five single-sided pages (excluding cover page, DD 1494, JF–12, etc.). The Coast Guard will select proposals at its sole discretion on the basis of:

(1) How well they communicate an understanding of, and ability to meet, the proposed CRADA's goal; and

(2) How well they address the following criteria:

(a) Technical capability to support the non-Federal party contributions described; and

(b) Resources available for supporting the non-Federal party contributions described.

Currently, the Coast Guard is considering General Dynamics Mission Systems (GDMS), for participation in this CRADA. However, we do not wish to exclude other viable participants from this or future similar CRADAs.

This is a technology suitability effort. The goal of this CRADA is to evaluate the suitability of implementing RF communications capabilities as virtualized services in a cloud environment. Special consideration will be given to small business firms/consortia, and preference will be given to business units located in the U.S.

This notice is issued under the authority of 5 U.S.C. 552(a).

Dated: November 8, 2019.

Gregory C. Rothrock,

Captain, USCG, Commanding Officer, U.S. Coast Guard Research and Development Center.

[FR Doc. 2019–25507 Filed 11–22–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0106]

Agency Information Collection Activities: Application To Pay Off or Discharge an Alien Crewman

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than January 24, 2020) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0106 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) Email. Submit comments to: *CBP_PRA@cbp.dhs.gov.*

(2) Mail. Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE, 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of

appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Application to Pay Off or Discharge an Alien Crewman.

OMB Number: 1651–0106.

Form Number: I–408.

Abstract: CBP Form I–408, Application to Pay Off or Discharge an Alien Crewman, is used as an application by the owner, agent, consignee, charterer, master, or commanding officer of any vessel or aircraft arriving in the United States to obtain permission from the Secretary of the Department of Homeland Security to pay off or discharge an alien crewman. This form is submitted to the CBP officer having jurisdiction over the area in which the vessel or aircraft is located at the time of application. CBP Form I–408 is authorized by Section 256 of the Immigration and Nationality Act (8 U.S.C. 1286) and provided for 8 CFR 252.1(h). This form is accessible at: *https://www.cbp.gov/newsroom/publications/forms.*

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 85,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 85,000.

Estimated Time per Response: 25 minutes.

Estimated Total Annual Burden Hours: 35,360.

Dated: November 19, 2019.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2019–25453 Filed 11–22–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R11–MB–2019–N120; FF07M01000–190–FXMB12310700000; OMB Control Number 1018–0168]

Agency Information Collection Activities; Alaska Native Handicrafts

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), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before January 24, 2020.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB/PERMA (JAO/1N), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–0168 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 (PRA), 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: The Migratory Bird Treaty Act of 1918 (16 U.S.C. 712(1)) authorizes the Secretary of the Interior, in accordance with the treaties with Canada, Mexico, Japan, and Russia, to ''issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during the Alaska spring and summer migratory bird subsistence harvest seasons so as to provide for the preservation and maintenance of stocks of migratory birds.'' Article II(4)(b) of the Protocol between the United States and Canada amending the 1916 Convention for the Protection of Migratory Birds in Canada and the United States provides a legal basis for Alaska Natives to be able sell handicrafts that contain the inedible parts of birds taken for food during the Alaska spring and summer migratory bird subsistence harvest. The Protocol also dictates that sales would be under a strictly limited situation pursuant to a regulation by a competent authority in cooperation with management bodies. The Protocol does not authorize the taking of migratory birds for commercial purposes.

In 2017, we issued a final rule (82 FR 34263), developed under a co-management process involving the Alaska Department of Fish and Game and Alaska Native representatives, that amended the permanent migratory bird subsistence harvest regulations at 50 CFR 92.6 to enable Alaska Natives to sell authentic native articles of handicraft or clothing that contain inedible byproducts from migratory birds that were taken for food during the Alaska migratory bird subsistence harvest season. Article II(4)(b) of the Protocol dictates that sales will be under

a strictly limited situation. Allowing Alaska Natives to sell a limited number of handicrafts containing inedible migratory bird parts provides a small source of additional income that we conclude is necessary for the ''essential needs'' of Alaska Natives in predominantly rural Alaska. This limited opportunity for sale is consistent with the language of the Protocol and is expressly noted in the Letter of Submittal to be consistent with the customary and traditional uses of Alaska Natives. Allowing this activity by Alaska Natives is also consistent with the preservation and maintenance of migratory bird stocks.

Eligibility will be shown by a Tribal Enrollment Card, Bureau of Indian Affairs card, or membership in the Silver Hand program. The State of Alaska Silver Hand program helps Alaska Native artists promote their work in the marketplace and enables consumers to identify and purchase authentic Alaska Native art. The insignia indicates that the artwork on which it appears is created by hand in Alaska by an individual Alaska Native artist. Only original contemporary and traditional Alaska Native artwork, not reproductions or manufactured work, may be identified and marketed with the Silver Hand insignia. To be eligible for a 2-year Silver Hand permit, an Alaska Native artist must be a full-time resident of Alaska, be at least 18 years old, and provide documentation of membership in a federally recognized Alaska Native tribe. The Silver Hand insignia may only be attached to original work that is produced in the State of Alaska.

The final rule requires that FWS Form 3–2484 (a simple certification which is not subject to the PRA) or a Silver Hand insignia accompany each Alaska Native article of handicraft or clothing that contains inedible migratory bird parts. It also requires all consignees, sellers, and purchasers retain this documentation with each item and produce it upon the request of a law enforcement officer. The final rule also requires that artists maintain adequate records of the certification or Silver Hand insignia with each item and requires artists and sellers/consignees provide the documentation to buyers. These recordkeeping and third-party notification requirements are subject to the PRA and require OMB approval.

Title of Collection: Alaska Native Handicrafts, 50 CFR 92.6.

OMB Control Number: 1018–0168.

Form Numbers: FWS Form 3–2484.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals and businesses.

Total Estimated Number of Annual Respondents: 8,749 (7,749 buyers and 1,000 artists, sellers, and consignees).

Total Estimated Number of Annual Responses: 18,081.

Estimated Completion Time per Response: 5 minutes.

Total Estimated Number of Annual Burden Hours: 1,507.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

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: November 19, 2019.

Madonna L. Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2019–25447 Filed 11–22–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORP00000.L54400000.EU0000.20X. LVCLH14H0900.HAG 19–0059]

Notice of Intent To Prepare a Brothers La Pine Resource Management Plan Amendment and Associated Environmental Assessment To Address Unauthorized Occupancy, Crook County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) Prineville District Office in Prineville, Oregon, is proposing to amend the 1989 Brothers La Pine Resource Management Plan (RMP) with an associated environmental assessment (EA) and by this Notice is announcing the beginning of the scoping process to solicit public comments on issues and planning criteria. The amendment would change the land tenure classification on 17.5 acres from zone 1 (Z–1, retention) to zone 3 (Z–3, suitable for disposal).

DATES: This Notice initiates the public scoping process for the RMP amendment with associated EA. Comments on issues and planning criteria may be submitted in writing until December 26, 2019. In order to be included in the analysis, all comments must be received prior to the close of the 30-day scoping period. The district will provide additional opportunities for public participation as appropriate.

ADDRESSES: You may submit comments on issues and planning criteria related to the Brothers La Pine RMP amendment and unauthorized occupancy resolution EA by any of the following methods:

- *Website: http://bit.ly/Lands-Resolution.*
- *Email: BLM_OR_PR_Mail@blm.gov.*
- *Fax:* 1–541–416–6782.
- *Mail:* Land Resolution, 3050 NE 3rd Street, Prineville, OR 97754.

Documents pertinent to this proposal may be examined at the Prineville District Office, 3050 NE 3rd Street, Prineville, OR 97754.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact Jeffrey Kitchens, Field Manager, at 541–416–6766 or by using the physical and email addresses above. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This RMP amendment and associated EA will address the above change in land tenure classification as well as a land disposal of 17.5 acres of public land located in Crook County within Township 16 South, Range 18 East (T. 16 S, R 18 E, Sec. 8, SE¼NW¼), Willamette Meridian, Oregon. A house and other structures built in the mid-1990s exist on the parcel as part of a long-term, unauthorized occupancy, use, and development. The purpose of the amendment is to enable the BLM to consider a full range of reasonable alternatives for permanently resolving the issue. If, through the land use planning process, it is determined that a change in classification to allow for land disposal is appropriate, the BLM will fully review the possible disposal consistent with Secretarial Order 3373, ''Evaluating Public Access in Bureau of Land Management Public Land Disposals and Exchanges.''

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the RMP

amendment and associated EA, including alternatives, and to guide the planning process. Preliminary issues include: How would the land tenure classification change affect Native American spiritual and traditional uses, wildlife, and visual resources? Preliminary planning criteria include: (1) Completing the plan in compliance with FLPMA, NEPA, and all other relevant Federal laws, Executive Orders, and management policies of the BLM; (2) Incorporating existing planning decisions that are still valid into the new amendment; (3) Recognizing valid existing rights; (4) Conducting tribal consultation in accordance with policy and considering tribal concerns, including potential impacts to cultural resources and tribal rights; and (5) Including, at a minimum, an alternative that continues existing land tenure classification (Z–1) and one that changes the classification to Z–3 and allows for disposal, including whether the disposal would impact access to surrounding public lands that provide recreational opportunities.

You may submit comments on issues and planning criteria in writing to the BLM using one of the methods listed in the **ADDRESSES** section above.

The BLM will use the NEPA public participation requirements to assist the agency in satisfying the public involvement requirements under Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470(f)) pursuant to 36 CFR 800.2(d)(3).

The BLM will consult with tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by this action the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the EA as a cooperating agency.

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.

The BLM will identify issues to be addressed in the RMP amendment and associated EA and will place them into one of three categories:

1. Issues to be resolved in the RMP amendment and associated EA,
2. Issues to be resolved through policy or administrative action, or
3. Issues beyond the scope of this RMP amendment.

The BLM will provide an explanation in the EA as to why an issue was placed in category two or three. The public is encouraged to identify any management questions and concerns that should be addressed in the RMP amendment and associated EA.

The BLM will use an interdisciplinary approach to develop the RMP amendment and associated EA in order to consider the variety of resource issues and concerns identified, including recreational access. Specialists with expertise in the following disciplines will be involved in the planning process: Rangeland management, outdoor recreation, visual resource management, archeology, paleontology, wildlife, botany, hazardous materials, and lands and realty.

Authority: 40 CFR 1501.7 and 43 CFR 1610.2.

Theresa M. Hanley,

Acting State Director.

[FR Doc. 2019–25466 Filed 11–22–19; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAD06000.L51010000.ER0000 19XL5017AP LVRWB19B6340 (MO# 4500140674)]

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Whitewater River Groundwater Replenishment Facility, Riverside County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Palm Springs-South Coast Field Office, Palm Springs, California, intends to prepare an Environmental Impact Statement (EIS) for the Whitewater River Groundwater Replenishment Facility. The applicant, the Coachella Valley Water District, has requested a right-of-way (ROW) authorization to operate and maintain a groundwater replenishment facility on approximately 690 acres of public lands managed by the BLM. All the facilities are existing; no new construction is proposed. The project site is located within the California Desert Conservation Area. By this notice, the BLM is announcing the beginning of the scoping process to solicit public comments and identify issues.

DATES: This notice initiates the public scoping process for the EIS. Comments on issues may be submitted in writing until December 26, 2019. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local media, newspapers and the BLM website at: *https://bit.ly/2kx76jY.* In order to be included in the Draft EIS, all scoping comments must be submitted in writing and received prior to the close of the 30-day scoping period. Additional opportunities for public participation will be available upon publication of the Draft EIS.

ADDRESSES: You may submit comments related to this EIS by any of the following methods:

- *Website: https://bit.ly/2kx76jY*
- *Email: blm_ca_whitewaterrecharge@blm.gov*
- *Fax:* 541–618–2400
- *Mail:* ATTN: Whitewater Replenishment Facility Project, Bureau of Land Management, Palm Springs-South Coast Field Office, 1201 Bird Center Drive, Palm Springs CA 92262

Documents pertinent to this proposal may be examined during regular business hours at: Bureau of Land Management, Palm Springs-South Coast Field Office, 1201 Bird Center Drive, Palm Springs, CA 92262

FOR FURTHER INFORMATION CONTACT: Miriam Liberatore, Project Manager, telephone 541–618–2412; address Bureau of Land Management, 3040 Biddle Road, Medford, OR 97504; email *blm_ca_whitewaterrecharge@blm.gov.* Contact Ms. Liberatore to have your name added to our mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Ms. Liberatore during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The applicant, Coachella Valley Water District, has requested a ROW authorization to operate and maintain a groundwater replenishment facility with a maximum capacity of 511,000 acre-feet per year, and associated operations

and maintenance areas. A portion of the facility is sited on approximately 690 acres of public lands managed by the BLM. All the facilities are existing; no new construction is proposed. The project site is located within the California Desert Conservation Area.

This Notice informs the public that the BLM intends to prepare an EIS for the Project, and announces the beginning of the public scoping process for this effort. The purpose of the public scoping process is to determine the size and scope of analysis needed, additional issues to study, and mitigation measures that should be considered in the analysis of the proposed action.

Preliminary issues for the project have been identified by the BLM, other Federal agencies, the State, local agencies, and other stakeholders. Issues include air quality, special status wildlife and vegetation species, hazards and hazardous materials, hydrology and water quality.

Alternatives will include the proposed action, a no action alternative, and at least one more alternative designed to reduce environmental impacts.

Written comments may be submitted to the BLM at a scoping meeting or via one of the methods listed in the **ADDRESSES** section earlier. Input must be received by the close of the 30-day public scoping period.

The BLM will utilize and coordinate the NEPA scoping process to help fulfill the public involvement process under the National Historic Preservation Act (NHPA) (54 U.S.C. 306108 as provided in 36 CFR 800.2(d)(3)). The information about historic and cultural resources within the area potentially affected by the proposed action will assist the BLM in identifying and evaluating impacts to such resources.

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed action that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency.

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.

Authority: 40 CFR 1501.7 and 43 CFR 1610.2.

Danielle Chi,

BLM California Deputy State Director, Natural Resources.

[FR Doc. 2019–25465 Filed 11–22–19; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDB00100.20XL.1109AF.L17110000. PH0000.LXSS024D0000.4500140489]

Notice of Public Meeting, Boise District Resource Advisory Council, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA), the Federal Advisory Committee Act of 1972 (FACA), and the Federal Lands Recreation Enhancement Act of 2004 (FLREA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Boise District Resource Advisory Council (RAC) will meet as indicated below.

DATES: The Boise District RAC will meet Thursday, January 9, 2020. The meeting will begin at 9:00 a.m. and end no later than 5:00 p.m. The public comment period will take place from noon until 12:30 p.m.

ADDRESSES: The Boise District RAC will meet at the BLM Boise District Office, 3948 Development Avenue, Boise, ID 83705.

FOR FURTHER INFORMATION CONTACT: Lara Douglas, District Manager, Boise District, 3948 Development Avenue, Boise, ID 83705. Telephone: (208) 384–3300. Email: *ledouglas@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may contact Ms. Douglas by calling the Federal Relay Service (FRS) at (800) 877–8339. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with Ms. Douglas. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 15-member RAC advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Idaho. The meeting agenda will include discussions of Four Rivers, Bruneau and Owyhee Field Office grazing, recreation, and fuels projects. The meeting will also include a discussion about forming a subcommittee dedicated to recreational shooting issues on public lands and a presentation by Idaho Department of Fish and Game on Sage-grouse population status in southwest Idaho. The final agenda will be posted to the Boise District RAC website one week prior to the meeting at *https://www.blm.gov/get-involved/resource-advisory-council/near-you/Idaho/boise-district-RAC.*

RAC meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the BLM as provided above.

Authority: 43 CFR 1784.4–1.

Lara Douglas,

BLM Boise District Manager.

[FR Doc. 2019–25509 Filed 11–22–19; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVS01000 L5105.0000.EA0000 LVRCF197050 19X MO#4500140295]

Notice of Temporary Closure of Public Land in Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary closures on public lands.

SUMMARY: The Las Vegas Field Office announces the temporary closures of certain public lands under its administration. The Off-Highway Vehicle (OHV) race area in Laughlin, Nevada, is used by OHV recreationists, and the temporary closures are needed to limit their access to the race area and to minimize the risk of potential collisions with spectators and racers. The closures will occur during two events: The 2019 Rage at the River and the 2020 Laughlin Desert Classic Off-Highway Vehicle Races.

DATES: The temporary closure for the 2019 Rage at the River will go into effect at 12:01 a.m. on December 14, 2019, and

will remain in effect until 11:59 p.m. on December 15, 2019. The temporary closure for the 2020 Laughlin Desert Classic will go into effect at 12:01 a.m. on February 22, 2020, and will remain in effect until 11:59 p.m. on February 23, 2020.

ADDRESSES: The temporary closure order, news release, and map of the temporary closure area for each event will be posted at the BLM Las Vegas Field Office, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130 and on the BLM website at *www.blm.gov.* These materials will also be posted at the access point of the Laughlin race area and the surrounding areas.

FOR FURTHER INFORMATION CONTACT: Kenny Kendrick, Outdoor Recreation Planner, telephone: (702) 515–5073, email: *Kkendrick@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Mr. Kendrick during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Las Vegas Field Office announces the temporary closures of certain public lands under its administration. This action is being taken to help ensure public safety during the official permitted running of both the 2019 Rage at the River and the 2020 Laughlin Desert Classic. The public lands affected by this closure are described as follows:

Mount Diablo Meridian, Nevada

T. 32 S, R. 66 E,
sec. 8, lots 2 thru 33;
sec. 9;
sec. 10, S½NE¼, S½NW¼, and S½;
sec. 11, S½NE¼, S½NW¼, and S½;
sec. 14;
sec. 15, E½;
sec. 16, N½, SW¼, and N½SE¼;
sec. 17, lots 1 thru 8, lots 21 thru 25, and lots 30 thru 44.

The area described contains 4,521.97 acres, according to the official plats of survey of the above lands which are on file with the BLM.

Roads leading into the public lands under the temporary closures will be posted to notify the public of the closures for both events. The closures area includes State Route 163 to the north, T. 32S, R. 66E sections 8 and 17 to the west, private and State land in T. 32S, R. 66E sections 20, 21, 22 and 23, and is bracketed by Bruce Woodbury Drive to the south and southwest, and Thomas Edison Drive to the east. Under the authority of Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 733(a)), 43 CFR 8360.0–7 and 43 CFR 8364.1, the BLM will enforce the following rules in the area described above.

The entire area as listed in the legal description above is closed to all vehicles and personnel except Law Enforcement, Emergency Vehicles, event personnel, event participants and spectators. Access routes leading to the closed area are closed to vehicles. No vehicle stopping or parking in the closed area except for designated parking areas will be permitted. Event participants and spectators are required to remain within designated areas only.

The following restrictions will be in effect for the duration of the closure to ensure public safety of participants and spectators. Unless otherwise authorized, the following activities within the closure area are prohibited:

- Camping.
- Possessing and/or consuming any alcoholic beverage, unless the person has reached the age of 21 years.
- Discharging or use of firearms or other weapons.
- Possession and/or discharging of fireworks.
- Allowing any pet or other animal in one's care to be unrestrained at any time. Animals must be on a leash or other restraint no longer than 3 feet.
- Operating any vehicle, including All Terrain Vehicles (ATV), motorcycles, Utility Terrain Vehicles (UTV), golf carts, and any off-highway vehicle (OHV) that is not legally registered for street and highway operation, including operation of such a vehicle in spectator viewing areas.
- Parking any vehicle in violation of posted restrictions, or in such a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, creating a safety hazard, or endangering any person, property, or feature. Vehicles so parked are subject to citation, removal, and impoundment at the owner's expense.
- Operating a vehicle through, around, or beyond a restrictive sign, recognizable barricade, fence, or traffic control barrier or device.
- Failing to maintain control of a vehicle to avoid danger to persons, property, or wildlife.
- Operating a motor vehicle without due care or at a speed greater than 25 mph.

Signs and maps directing the public to designated spectator areas will be provided by the event sponsor.

Exceptions: Temporary closure restrictions do not apply to activities conducted under contract with the BLM, agency personnel monitoring the event, or activities conducted under an approved plan of operation. Authorized users must have, in their possession, a written permit or contract from BLM signed by the authorized officer.

Enforcement: Any person who violates this temporary closure may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, or both. In accordance with 43 CFR 8365.1–7, State or local officials may also impose penalties for violations of Nevada law.

Authority: 43 CFR 8360.0–7 and 8364.1.

Shonna Dooman,

Field Manager—Las Vegas Field Office.

[FR Doc. 2019–25512 Filed 11–22–19; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[17X.LLAZA01000.L54400000.EU0000. LVCLA17A5400; AZA–024631]

Notice of Realty Action: Proposed Town of Colorado City, Arizona, Airport Conveyance

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) has examined and found suitable for conveyance to the Town of Colorado City, Arizona (Patentee), for airport purposes, parcels of public land located in Mohave County, Arizona, totaling 141.38 acres. The Federal Aviation Administration (FAA), on behalf of the Town of Colorado City, requested the conveyance of public lands to the Town of Colorado City for airport expansion to bring the Colorado City Municipal Airport into compliance with FAA safety and design standards.

DATES: Interested parties may submit written comments regarding this conveyance on or before January 9, 2020.

ADDRESSES: Comments concerning this Notice should be addressed to Lorraine M. Christian, Field Office Manager, BLM Arizona Strip Field Office, 345 East Riverside Drive, St. George, UT 84790.

FOR FURTHER INFORMATION CONTACT: Kendra Thomas, Realty Specialist, at the above address; phone 435–688–3211; or by email at *klthomas@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339

to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question for the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM has examined and found the following public lands suitable for conveyance under Section 516 of the Airport and Airway Improvement Act of 1982 (Pub. L. 97–248; 49 U.S.C. 47125), 43 CFR 2640 and 14 CFR part 153:

Gila and Salt River Meridian, Arizona

T. 41 N., R. 7 W.,
Sec. 13, lots 1, 5, 6, 7, 9, and 11;
Sec. 14, lots 1, 2, 9 and 11.
The areas described contain 141.38 acres.

A map delineating the parcels are available for public review at the BLM Arizona Strip Field Office at the address above.

This Notice informs the public that the FAA, on behalf of the Town of Colorado City, is requesting the conveyance of public lands for airport expansion in order to comply with FAA safety and design standards in accordance with FAA Advisory Circular 150/5300–13A, to ensure safe and efficient airport operation. This project will convey 141.38 acres of public land to the Town of Colorado City for the Object Free Area, Runway Protection Zone, and Runway Visibility Zone to ensure the protection of compatible land use adjacent to the Airport.

Issuance of the document of conveyance is in accordance with the Arizona Strip Resource Management Plan, Decision Nos. MA–LR–04 and IMPL–LR–03. Public land will be made available for airport expansion at the existing Colorado City Municipal Airport (the BLM conveyed 111.89 acres to the city for the existing airport by Patent No. 02–94–0015 and Deed No. AZ–94–005) in coordination with the Colorado City officials, Arizona Department of Transportation, and the FAA, subject to the National Environmental Policy Act and Environmental Site Assessment compliance. Conveyance of the lands is consistent with applicable Federal and county land use plans and meets the needs of the community. The lands are not required for any other Federal purpose. This disposal action will not impede access to Federal lands used for recreation, as the Federal lands in the vicinity will continue to have public access. The conveyance would be subject to the provisions of Section 516 of the Airport and Airway Improvement Act of 1982 (Pub. L. 97–248; 49 U.S.C. 47125), FAA regulations at 14 CFR part 153, and applicable regulations of the Secretary of the Interior, including, but not limited to 43 CFR 2640 and the following reservations to the United States and covenants and conditions to the proposed patentee:

Excepting and Reserving to the United States:

1. A rights-of-way thereon for ditches or canals constructed under the authority of the United States, as authorized by the Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals in the lands, together with the right to mine and remove the same under applicable laws and regulations. The Secretary of the Interior reserves the right to determine whether such mining and removal of minerals will interfere with the development, operation, and maintenance of the airport.

Subject to:

The rights for a telephone line granted to South Central Utah Telephone Association, its successors or assignees, by right-of-way No. AZA 24630, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

By acceptance of this patent, the patentee agrees for itself, its successors or its assignees, that the following covenants and conditions shall attach to and run with the land being conveyed:

1. That the property interests herein conveyed will be used by the Patentee, its successors, or its assignees solely for public airport purposes in connection with the Colorado City Municipal Airport.

2. That the Patentee, its successors, or assignees shall not transfer or assign the property interests herein conveyed without approval of the Administrator of the Federal Aviation Administration (Administrator).

3. That the right is hereby reserved to the United States, its officers, agents, or employees to enter upon the said premises at any time for the purpose of inspection to inventory and when otherwise deemed necessary for the protection of the interests of the United States, and the Patentee shall have no claim of any character on account thereof against the United States or any officer, agent or employee thereof.

4. That all improvements constructed on the said premises by or under the authority of the Patentee, it successors, or its assignees shall be maintained in good order and repair without cost or expense to the United States.

5. That the United States shall not be responsible for any damages to property or injuries to persons which may arise from or be incident to the use or occupation of the said premises, or for damages to the property of the Patentee, its successors, or its assignees, or for damages to the property or injuries to the person of the Patentee's officers, agents, servants, or employees, or others who may be in or on said premises at their invitation or the invitation of any one of them, arising from or incident to governmental activities; and the Patentee, its successors, or its assignees shall hold the United States harmless from any and all such claims, except as applicable under the Federal Tort Claims Act.

6. That the United States reserves to itself and others rights-of-way for all purposes across, over, and/or under the said premises; provided: That such rights-of-way shall be used in a manner that will not create unnecessary interference with the use and enjoyment by the Patentee, its successors, or its assignees of said premises for public airport purposes.

7. That the Patentee, its successors, or its assignees will operate the airport, together with its appurtenant areas, buildings, and facilities regardless of whether they are on the lands conveyed, as a public use airport on fair and reasonable terms and without unjust discriminations.

8. That the Patentee, its successors, or its assignees will not grant or permit any exclusive right in the operation and use of the airport, together with its appurtenant areas, buildings, and facilities regardless of whether they are on the lands being conveyed, as required by section 303 of the Federal Aviation Act of 1938, as amended, and section 308(a) of the Federal Aviation Act of 1958, as amended.

9. That in the operation of the airport and its appurtenant areas, the Patentee, its successors, or its assignees:

a. Agrees that no person shall be excluded from any participation, be denied any benefits or be otherwise subjected to any discrimination, on the grounds of race, creed, color, national origin, disability, or sex;

b. agrees to comply with all requirements imposed by or pursuant to Part 21 of the Regulations of the Office of the Secretary of Transportation (49 CFR 21)—nondiscrimination in federally assisted programs of the Department of Transportation—effectuation of Title VI of the Civil Rights Act of 1964.

10. That any subsequent transfer of the conveyed property interest to another non-federal public entity will be subject to the terms, conditions, and covenants set forth in the original instrument of conveyance.

11. That any instrument used by the Patentee, its successors, or its assignees to lease the hereinabove described real property shall include the following

covenants, conditions, restrictions and reservations:

a. There is hereby reserved to the Patentee, its successors or its assignees, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the above described real property, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from, or operating on Colorado City Municipal Airport.

b. (Lessee, Licensee, Permittee, etc.), by (accepting this conveyance) (entering into this agreement), expressly agrees, for itself, its successors, and assigns, that it will not erect nor permit the erection of any structure or building nor permit objects of natural growth or other obstruction on the above described real property above a height as determined by the application of the requirements of 14 CFR part 77. In the event the aforesaid covenant is breached, the Patentee, its successors, or its assignees reserves the right to enter on the above described real property and to remove the offending structure or object and to cut the offending natural growth, all of which shall be at the expense of the (Lessee, Licensee, Permittee, etc.).

c. (Lessee, Licensee, Permittee, etc.), by (accepting this conveyance) (entering into this agreement), expressly agrees, for itself, its successors, or its assignees, that it will not make use of the above described real property in any manner which might interfere with the landing or taking off of aircraft at the Colorado City Municipal Airport, or otherwise constitute an airport hazard. In the event the aforesaid covenant is breached, the Patentee, its successors, or its assignees, reserves the right to enter on the said real property and cause the abatement of such interference at the expense of the (Lessee, Licensee, Permittee, etc.).

d. That the release granted hereby is for the purposes stated herein, only, and nothing contained herein shall be constructed as permitting a sale, or other alienation, by the Patentee, its successors, or its assignees with or without monetary consideration, except by prior approval of the Administrator.

12. A conveyance may be made only on the condition that the property interest conveyed reverts to the United States, at the option of the Secretary [of Transportation], to the extent it is not developed for an airport purpose or used consistently with the terms of the conveyance.

13. That a determination by the Administrator that one of the foregoing covenants has been breached is conclusive of the facts; and that, if the right of entry and possession of title stipulated in the foregoing covenants is exercised, the Patentee, its successors, or its assignees will, upon demand of the Administrator, or her/his successor in function, take any action (including prosecution of suit or executing of instruments) that may be necessary to evidence transfer to the United States of title to the property interest conveyed or, in the Administrator's discretion, to that part of that interest to which the breach relates.

This Notice segregates the above-described public lands from operation of the public land laws, including the mining laws. The segregative effect will end upon issuance of a document of conveyance or one year from the date of this publication, whichever occurs first.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application or any other factor not directly related to the suitability of the lands for an airport conveyance. The BLM Arizona State Director will review any adverse comments. In the absence of any adverse comments, the decision will become final. The lands will not be offered for conveyance until a determination of significance and Decision Record have been signed for the completed Environmental Assessment DOI–BLM–AZ–A010–2018–0016–EA found at: *https://go.usa.gov/xPfmu*.

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 available to the public at any time. While you can ask in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 CFR 2640 and FAA 14 CFR part 153.

Lorraine M. Christian,

Field Manager.

[FR Doc. 2019–25508 Filed 11–22–19; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNV952000 L14400000.BJ0000.LXSSF2210000.241A; MO #4500140815 TAS: 20X]

Filing of Plats of Survey; NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

DATES: Filing is applicable at 10:00 a.m. on the date indicated below.

FOR FURTHER INFORMATION CONTACT: Michael O. Harmening, Chief Cadastral Surveyor for Nevada, Bureau of Land Management, Nevada State Office, 1340 Financial Blvd., Reno, NV 89502–7147, phone: 775–861–6490. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

1. The Plat of Survey of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada on August 27, 2019:

The plat, in one sheet, representing the dependent resurvey of a portion of the subdivisional lines and a portion of the subdivision-of-section line of section 34, the subdivision of sections 27 and 28, and a metes-and-bounds survey of a portion of the southwesterly line of the Section 368 West-Wide Energy Corridor 224–225, in section 27 and through section 34, Township 20 South, Range 54 East, Mount Diablo Meridian, Nevada, under Group No. 979, was accepted August 23, 2019.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

The survey listed above, is now the basic record for describing the lands for all authorized purposes. This record has been placed in the open files in the BLM Nevada State Office and is available to the public as a matter of information.

Dated: November 14, 2019.

Michael O. Harmening,

Chief Cadastral Surveyor for Nevada.

[FR Doc. 2019–25438 Filed 11–22–19; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[20X.LLAK930000.L13100000.DP0000. LXSSL0550000]

Notice of Availability of the National Petroleum Reserve in Alaska Integrated Activity Plan Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Naval Petroleum Reserves Production Act of 1976 (NPRPA), as amended, the Bureau of Land Management (BLM), Alaska State Office, has prepared the Draft Environmental Impact Statement (EIS) for the Integrated Activity Plan (IAP) for the National Petroleum Reserve in Alaska (NPR–A) and by this notice is announcing the opening of the public comment period. The BLM is also announcing that it will hold public meetings on the Draft EIS and subsistence-related hearings to receive comments on the Draft EIS and the potential to impact subsistence resources and activities.

DATES: Comments on the Draft EIS may be submitted in writing until 60 days after the Environmental Protection Agency's publication of Notice of Availability of the Draft EIS in the **Federal Register**. The BLM will hold public meetings in: Anaktuvuk Pass, Anchorage, Atqasuk, Fairbanks, Nuiqsut, Point Lay, Utqiagvik and Wainwright. A public hearing on subsistence resources and activities will occur in conjunction with the public meeting for the Draft EIS in the potentially affected communities of Anaktuvuk Pass, Atqasuk, Nuiqsut, Utqiagvik, Point Lay and Wainwright. The dates, times, and locations, of the meetings will be announced through local news media, newspapers, and the BLM website.

ADDRESSES: You may submit comments by any of the following methods:

- *Website: https://www.blm.gov/programs/planning-and-nepa/plans-in-development/alaska/npr-a-iap-eis;*
- *Mail to:* BLM, Alaska State Office, Attention—NPR–A IAP/EIS, 222 West 7th Avenue, #13, Anchorage, AK 99513–7599;
- *Hand Delivery:* BLM Alaska Public Information Center (Public Room), 222 W 7th Avenue (First Floor), Anchorage, Alaska; or
- BLM Alaska Public Information Center (Public Room), 222 University Avenue, Fairbanks, Alaska.

FOR FURTHER INFORMATION CONTACT: Stephanie Rice, 907–271–3202; by mail: Bureau of Land Management, 222 West 7th Avenue, #13, Anchorage, AK 99513–7599. You may also request to be added to the mailing list for the EIS. Documents pertaining to the EIS may be examined at *http://www.blm.gov/alaska* or at the BLM Alaska State Office, BLM Alaska Public Information Center (Public Room), 222 West 7th Avenue (First Floor), Anchorage, Alaska.

People who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM prepared a new IAP/EIS to determine the appropriate management of all BLM managed lands in the NPR–A in a manner consistent with existing statutory direction and Secretarial Order 3352. Secretarial Order 3352 directed the development of a schedule to ''effectuate the lawful review and development of an IAP for the NPR–A that strikes an appropriate balance of promoting development while protecting surface resources.'' The NPRPA, as amended, and its implementing regulations require oil and gas leasing in the NPR–A and the protection of surface values consistent with exploration, development and transportation of oil and gas. The IAP will serve to inform BLM's management of the NPR–A for all permissible uses. Specifically, the IAP/EIS considers and analyzes the environmental impact of various management alternatives, including the areas to offer for oil and gas leasing, and the indirect impacts that could result in consideration of the hypothetical development scenario. The alternatives analyze various terms and conditions (*i.e.,* lease stipulations and required operating procedures) to permittees in the NPR–A, to properly balance oil and gas development and other activities with protection of surface resources. The lands comprising the NPR–A are approximately 23 million acres.

The purpose of the public comment period is to inform the public of the availability of the Draft EIS and solicit comments from the public. Information received during the public comment period will be used to develop the Final EIS.

Before including your address, phone number, email address, or other personal identifying information, be advised that your entire comment, including your identifying information, may be made publicly available at any time. While you may ask us in your comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The BLM has worked with interested parties to identify the management decisions best suited to local, regional, and national needs and concerns, as well as to develop a range of alternatives that examines how best to balance development with protecting surface resources. Future on-the-ground actions requiring BLM approval, including potential exploration and development proposals, would require further NEPA analysis based on the site-specific proposal. Potential applicants would be subject to the terms of the new IAP/EIS Record of Decision; however, the BLM Authorized Officer may require additional site-specific terms and conditions before authorizing any oil and gas activity based on the project level NEPA analysis.

Section 810 of ANILCA requires BLM to evaluate the effects of the alternatives presented in the Draft EIS on subsistence activities, and to hold public hearings if it finds that any alternative may significantly restrict subsistence uses. The preliminary evaluation of subsistence impacts indicates that certain alternatives analyzed in the Draft EIS and the associated cumulative impacts may significantly restrict subsistence uses. Therefore, the BLM will hold public hearings on subsistence resources and activities in conjunction with the public meeting on the Draft EIS in the potentially affected communities of Anaktuvuk Pass, Atqasuk, Point Lay, Nuiqsut, Utqiagvik and Wainwright.

Authority: 16 U.S.C. 3120(a); 40 CFR 1506.6(b).

Chad B. Padgett,

State Director, Alaska.

[FR Doc. 2019–25513 Filed 11–22–19; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NCR–WHHO–WHHOA1–29136; PPNCWHHOA1; PPMPSPD1Z.YM0000]

Committee for the Preservation of the White House Notice of Public Meeting

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972, the National Park Service (NPS) is hereby giving notice that the Committee for the Preservation of the White House will meet as indicated below.

DATES: The meeting will take place on Monday, December 9, 2019. The meeting will begin at 10:00 a.m. until 11:30 a.m. (Eastern).

ADDRESSES: The meeting will be held at the White House, 1600 Pennsylvania Avenue NW, Washington, DC 20500.

FOR FURTHER INFORMATION CONTACT: Comments may be provided to: John Stanwich, Executive Secretary, Committee for the Preservation of the White House, 1849 C Street NW, Room #1426, Washington, DC 20240, by telephone (202) 219–0322, or by email *ncr_whho_superintendent@nps.gov.*

SUPPLEMENTARY INFORMATION: The Committee has been established in accordance with Executive Order No. 11145, 3 CFR 184 (1964–1965), as amended. The Committee reports to the President of the United States and advises the Director of the NPS with respect to the discharge of responsibilities for the preservation and interpretation of the museum aspects of the White House pursuant to the Act of September 22, 1961 (Pub. L. 87–286, 75 Stat. 586).

Purpose of the Meeting: It is expected that the meeting agenda will include policies, goals, and long-range plans.

If you plan to attend this meeting, you must register by close of business on Thursday, December 5, 2019. Please contact the Executive Secretary *ncr_whho_superintendent@nps.gov* or phone (202) 219–0322 to register. Space is limited and requests will be accommodated in the order they are received. The meeting will be open, but subject to security clearance requirements. The Executive Secretary will contact you directly with the security clearance requirements. Inquiries may be made by calling the Executive Secretary between 9:00 a.m. and 4:00 p.m. weekdays at (202) 219–0322. Written comments may be sent to the Executive Secretary, Committee for the Preservation of the White House, 1849 C Street NW, Room #1426, Washington, DC 20240. All written comments received will be provided to the Committee.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your written comments, 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.

Authority: 5 U.S.C. Appendix 2.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2019–25455 Filed 11–22–19; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–345]

Recent Trends in U.S. Services Trade, 2020 Annual Report

AGENCY: United States International Trade Commission.

ACTION: Schedule for 2020 report and opportunity to submit information.

SUMMARY: The Commission has prepared and published annual reports in this series under investigation No. 332–345, *Recent Trends in U.S. Services Trade,* since 1996. The 2020 report, which the Commission plans to publish in June 2020, will provide aggregate data on cross-border trade in services for the period ending in 2018, and transactions by affiliates based outside the country of their parent firm for the period ending in 2017. The report's analysis will focus on financial services (including banking services, insurance services, and securities services). The Commission is inviting interested members of the public to furnish information and views in connection with the 2020 report.

DATES: *December 13, 2019:* Deadline for filing written submissions.

June 5, 2020: Anticipated date for online publication of the report.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E St. SW, Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E St. SW, Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket information system (EDIS) at *https://edis.usitc.gov/.*

FOR FURTHER INFORMATION CONTACT: Information specific to this investigation may be obtained from Eric Forden, Project Leader, Office of Industries, Services Division (202–205–3235, *eric.forden@usitc.gov*), Carlos Rodriguez, Deputy Project Leader, Office of Industries, Services Division (202–205–3132, *carlos.rodriguez@usitc.gov*), or Services Division Chief Martha Lawless (202–205–3497, *martha.lawless@usitc.gov*). For information on the legal aspects of these investigations, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091; *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819; *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its website (*https://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION:

Background: The 2020 annual services trade report will provide aggregate data on cross-border trade in services for 2018 and affiliate transactions in services for 2017, and more specific data and information on trade in financial services (banking, insurance, and securities services). Under Commission investigation No. 332–345, the Commission publishes two annual reports, one on services trade (Recent Trends in U.S. Services Trade), and a second on merchandise trade (Shifts in U.S. Merchandise Trade). The Commission's 2019 annual report in the series of reports on Recent Trends in U.S. Services Trade is now available online at *https://www.usitc.gov.*

The initial notice of institution of this investigation was published in the **Federal Register** on September 8, 1993 (58 FR 47287) and provided for what is now the report on merchandise trade. The Commission expanded the scope of the investigation to cover services trade in a separate report, which it announced in a notice published in the **Federal Register** on December 28, 1994 (59 FR 66974). The separate report on services trade has been published annually since 1996, except in 2005. As in past years,

the report will summarize trade in services in the aggregate and provide analyses of trends and developments in selected services industries during the latest period for which data are published by the U.S. Department of Commerce, Bureau of Economic Analysis.

Written Submissions: Interested parties are invited to file written submissions and other information concerning the matters to be addressed by the Commission in its 2020 report. For the 2020 report, the Commission is particularly interested in receiving information relating to trade in financial services (banking, insurance, and securities services). Submissions should be addressed to the Secretary. To be assured of consideration by the Commission, written submissions related to the Commission's report should be submitted at the earliest practical date and should be received not later than 5:15 p.m., December 13, 2019. All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 p.m. Eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the paragraph below for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202–205–1802).

Confidential Business Information. Any submissions that contain confidential business information (CBI) must also conform with the requirements in section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are confidential or non-confidential, and that the confidential business information be clearly identified by means of brackets. Interested parties will make all written submissions, except for confidential business information, available for inspection.

The Commission intends to prepare only a public report in this investigation. The report that the Commission makes available to the public will not contain confidential business information. However, all information, including confidential business information, submitted in this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel solely for cybersecurity purposes. The Commission will not otherwise disclose any confidential business information in a manner that would reveal the operations of the firm supplying the information.

Summaries of Written Submissions: The Commission intends to publish summaries of the positions of interested persons in this report. If you wish to have a summary of your position included in an appendix of the report, please include a summary with your written submission and mark the summary as submitted for that purpose. The summary may not exceed 500 words, should be in MSWord format or a format that can be easily converted to MSWord, and should not include any confidential business information. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. In the report the Commission will identify the name of the organization furnishing the summary, and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.

Issued: November 19, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–25472 Filed 11–22–19; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1021 (Third Review)]

Malleable Iron Pipe Fittings From China; Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty order on Malleable Iron Pipe Fittings from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted this review on July 1, 2019 (84 FR 31346) and determined on October 4, 2019 that it would conduct an expedited review (84 FR 55172, October 15, 2019).

The Commission made this determination pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determination in this review on November 19, 2019. The views of the Commission are contained in USITC Publication 4993 (November 2019), entitled *Malleable Iron Pipe Fittings from China: Investigation No. 731–TA–1021 (Third Review).*

By order of the Commission.

Issued: November 20, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–25501 Filed 11–22–19; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Electronic Devices with Optical Filters and Optical Sensor Systems and Components Thereof, DN 3419*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information

System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Viavi Solutions Inc. on November 18, 2019. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic devices with optical filters and optical sensor systems and components thereof. The complaint names as respondents: Optrontec Inc. of Korea; LG Electronics, Inc. of Korea; LG Innotek Co., Ltd. of Korea; and LG Electronics U.S.A., Inc. of Englewood Cliffs, NJ. The complainant requests that the Commission issue a limited exclusion and cease and desist orders.

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3419'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: November 19, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–25440 Filed 11–22–19; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1210–1212 (Review) and 701–TA–454 and 731–TA–1144 (Second Review)]

Welded Stainless Steel Pressure Pipe From China, Malaysia, Thailand, and Vietnam; Determination

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping and countervailing duty orders on welded stainless steel pressure pipe from China and the antidumping duty orders on welded stainless steel pressure pipe from Malaysia, Thailand, and Vietnam would be likely to lead to continuation or recurrence of material injury to an

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

industry in the United States within a reasonably foreseeable time.

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted these reviews on June 3, 2019 (84 FR 25567) and determined on September 6, 2019 that it would conduct expedited reviews (84 FR 55171, October 15, 2019).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on November 19, 2019. The views of the Commission are contained in USITC Publication 4994 (November 2019), entitled *Welded Stainless Steel Pressure Pipe from China, Malaysia, Thailand, and Vietnam: Investigation Nos. 731–TA–1210–1212 (Review) and 701–TA–454 and 731–TA–1144 (Second Review).*

By order of the Commission.

Issued: November 19, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–25442 Filed 11–22–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Mechanical Stratigraphy and Natural Deformation in the Permian Strata of Texas and New Mexico: Implications for Exploitation of the Permian Basin—Phase 2

Notice is hereby given that, on October 29, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Cooperative Research Group on Mechanical Stratigraphy and Natural Deformation in the Permian Strata of Texas and New Mexico: Implications for Exploitation of the Permian Basin—Phase 2 (''Permian Basin—Phase 2'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ConocoPhillips Company, Houston, TX, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Permian Basin—Phase 2 intends to file additional written notifications disclosing all changes in membership.

On August 15, 2019, Permian Basin—Phase 2 filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2019 (84 FR 48377).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit Antitrust Division.

[FR Doc. 2019–25446 Filed 11–22–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Medical CBRN Defense Consortium

Notice is hereby given that, on October 24, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Medical CBRN Defense Consortium (''MCDC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Chembio Diagnostics Systems, Inc., Medford, NY; Emory University, Atlanta, GA; ICON Government and Public Health Solutions, Inc., Hinckley, OH; Infectious Disease Research Institute (IDRI), Seattle, WA; and Scarab Genomics, LLC, Madison, WI, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MCDC intends to file additional written notifications disclosing all changes in membership.

On November 13, 2015, MCDC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 6, 2016 (81 FR 513).

The last notification was filed with the Department on July 24, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 16, 2019 (84 FR 42012).

Suzanne Morris,

Chief, Premerger and Division Statistics UnitAntitrust Division.

[FR Doc. 2019–25448 Filed 11–22–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

[OMB Number 1103–0102]

Agency Information Collection Activities; Proposed eCollection eComments Requested; COPS Progress Report

AGENCY: Community Oriented Policing Services, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The purpose of this notice is to allow for an additional 60 days for public comment January 24, 2020.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lashon M. Hilliard, Department of Justice Office of Community Oriented Policing Services, 145 N Street NE, Washington, DC 20530, 202–514–6563.

Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—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.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* COPS Progress Report.

(3) *Agency form number:* 1103–0102 U.S. Department of Justice Office of Community Oriented Policing Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Law Enforcement Agencies.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* There will be approximately 1,424 awardees submitting a COPS Progress Report on a semi-annually basis, or 4,042 responses annually. The average estimated time to complete a progress report is 35 minutes per awardee submission.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 0.4167 hours per respondent × 1424 respondents × 2 (semi-annually response) = 2,848 annual hours.

Total Annual Respondent Burden: 2,848 hours.

If additional information is required contact: Melody D. Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Room 3E.405A, Washington, DC 20530.

Dated: November 20, 2019.

Melody D. Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–25547 Filed 11–22–19; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under The Clean Air Act

On November 19, 2019, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Puerto Rico in the lawsuit entitled *United States of America* v. *Puerto Rico CVS Pharmacy, LLC,* Civil Action No. 3:19–cv–02075.

The Consent Decree resolves the Resource Conservation and Recovery Act violations as alleged in the Complaint, also filed by the United States on November 19, 2019. The violations alleged in the Complaint arose in 2013 and include Puerto Rico CVS Pharmacy's (''CVS'') failure to comply with certain RCRA regulations governing management of hazardous waste at some of its Puerto Rico stores. Specifically, they include, among others, a failure to maintain hazardous waste containers closed, failure to mark the accumulation start date on hazardous waste containers, and a failure to maintain a contingency plan on site.

The Consent Decree requires CVS to conduct a compliance assessment of its Puerto Rico stores, and to conduct training for Puerto Rico store managers. The Consent Decree also requires CVS to pay a $60,000 penalty.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environmental and Natural Resources Division, and should refer to *United States* v. *Puerto Rico CVS Pharmacies, LLC,* DOJ Ref. # 90–7–1–11211. All comments must be submitted no later than thirty days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $5.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry Friedman,

Assistant Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 2019–25486 Filed 11–22–19; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0140]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection: OJP Standard Assurances

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 30 days until December 26, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Maria Swineford, Office of Audit, Assessment, and Management, 810 7th Street NW, Washington, DC 20531. (Phone: 202–514–2000). Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should

address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* OJP Standard Assurances.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: None.

Component: Office of Justice Programs, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Applicants for grants funded by the Office of Justice Programs.

Other: None.

Abstract: The purpose of the Standard Assurances form is to obtain the assurance/certification of each applicant for OJP funding that it will comply with the various crosscutting regulatory and statutory requirements that apply to OJP grantees, and to set out in one easy-to-reference document those requirements that most frequently impact OJP grantees.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Total of 8,250 respondents estimated, at 20 minutes each.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total public burden associated with this information is 3,500.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: November 20, 2019.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–25546 Filed 11–22–19; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Post-Initial Determinations Regarding Eligibility 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 *October 1, 2019 through October 31, 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 Determination on Remand

Post-initial determinations have also been issued with respect to cases where negative determinations regarding eligibility to apply for TAA were issued initially or on reconsideration and were appealed to the Court of International Trade and remanded by the court to the Secretary for the taking of additional evidence. See 29 CFR 90.19(a) and (c). For cases where the worker group eligibility requirements are met, the previous determination was modified and Revised Determinations on Remand have been issued. For cases where the worker group eligibility requirements are not met, the previous determination is affirmed and Negative Determinations on Remand have been issued. The Secretary will certify and file the record of the remand proceedings in the Court of International Trade. Determinations on Remand are final determinations for purposes of judicial review pursuant to section 284 of the Act (19 U.S.C. 2395).

Summary of Statutory Requirement

(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).

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)
95,056	Workforce Logiq	Dallas, TX	8/7/2018	Worker Group Clarification

Negative Determinations on Reconsideration (After Affirmative Determination Regarding Application for Reconsideration)

In the following cases, negative determinations on reconsideration have been issued because the eligibility criteria for TAA have not been met for the reason(s) specified.

The investigation revealed that the criteria under Trade Act section 222(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) have not been met.

TA–W No.	Subject firm	Location
92,084	Northern Industrial Erectors, Inc.	Grand Rapids, MN.

I hereby certify that the aforementioned determinations were issued during the period of *October 1, 2019 through October 31, 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 7th day of November 2019.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2019–25493 Filed 11–22–19; 8:45 am]

BILLING CODE 4510–FN–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 December 5, 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 December 5, 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 7th day of November 2019.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

106 TAA Petitions Instituted Between 10/1/19 and 10/31/19

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
95235	AVX US Microtek Filters Corporation (State/One-Stop)	Sun Valley, CA	10/01/19	09/30/19
95236	Faurecia Automotive Seating (Company)	Cleveland, MS	10/01/19	09/30/19
95237	John Deere (State/One-Stop)	Coffeyville, KS	10/01/19	09/30/19
95238	Thryv, Inc. (Workers)	St. Petersburg, FL	10/01/19	09/30/19
95239	Tire Tread Development, Inc. (State/One-Stop)	Mogadore, OH	10/01/19	09/30/19
95240	Workforce Logiq (State/One-Stop)	Dallas, TX	10/01/19	09/30/19
95241	Bayou Steel Group (State/One-Stop)	LaPlace, LA	10/02/19	10/01/19
95242	Teva Pharmaceuticals USA, Inc. (Company)	Mexico, MO	10/02/19	10/01/19
95243	Wholesome Harvest Baking LLC and Bimbo (State/One-Stop)	Richmond, CA	10/02/19	10/01/19
95244	Wholesome Harvest Baking LLC Group Bimbo (Union)	Richmond, CA	10/02/19	10/01/19
95245	ABB Inc. (Union)	Lewisburg, WV	10/03/19	10/01/19
95246	Cochlear Americas (State/One-Stop)	Centennial, CO	10/03/19	10/02/19
95247	Gannett Satellite Information (State/One-Stop)	Palm Springs, CA	10/03/19	10/02/19
95248	L&P Materials Manufacturing, Inc. (Company)	Jacksonville, FL	10/03/19	10/02/19
95249	Plains Marketing (State/One-Stop)	Yankton, SD	10/03/19	10/03/19
95250	Dagoba Organic Chocolate (The Hershey Company) (State/One-Stop)	Ashland, OR	10/04/19	10/03/19
95251	Daimler Trucks North America (Union)	Cleveland, NC	10/04/19	10/02/19
95252	USF Reddaway Inc. (State/One-Stop)	Tualatin, OR	10/04/19	10/03/19
95253	Rohr, Inc. (State/One-Stop)	Chula Vista, CA	10/04/19	10/03/19
95254	Daimler Trucks North America (Union)	Mt. Holly, NC	10/07/19	10/03/19
95255	Everett Charles Technologies, LLC (COHU) (Workers)	Fontana, CA	10/07/19	10/04/19
95256	Johnson Controls-TYCO (State/One-Stop)	Indianapolis, IN	10/07/19	10/04/19
95257	Philips Healthcare (State/One-Stop)	Pewaukee, WI	10/07/19	10/04/19
95258	Lufkin Industries a Baker Hughes Company (State/One-Stop)	Lufkin, TX	10/07/19	10/04/19
95259	Norcraft Companies L.P. (State/One-Stop)	Lynchburg, VA	10/07/19	10/04/19
95260	Sims Metal Management (State/One-Stop)	Providence, RI	10/08/19	10/07/19
95261	CCU Coal and Construction, LLC (State/One-Stop)	Coshocton, OH	10/09/19	10/08/19
95262	E. Roko Distributions, Inc. (State/One-Stop)	Kent, WA	10/09/19	10/04/19
95263	Nokia of America Corporation (State/One-Stop)	Coppell, TX	10/09/19	10/08/19
95264	Ocwen Financial Corporation (State/One-Stop)	Addison, TX	10/09/19	10/08/19
95265	United States Steel Corporation (State/One-Stop)	East Chicago, IN	10/09/19	10/08/19

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
95266	Wolverine Advanced Materials (State/One-Stop)	Blacksburg, VA	10/09/19	10/08/19
95267	Calaway Trading Inc. (State/One-Stop)	Saint Helens, OR	10/10/19	10/10/19
95268	Carlisle Interconnect Technologies-Tristar Technologies (Company)	El Segundo, CA	10/10/19	10/08/19
95269	Cleaver-Brooks (State/One-Stop)	Lincoln, NE	10/10/19	10/09/19
95270	Emerald Mississippi LLC (Company)	New Albany, MS	10/10/19	10/09/19
95271	EnerVest Employee Services, LLC (State/One-Stop)	Clintwood, VA	10/10/19	10/10/19
95272	Molex (State/One-Stop)	Lincoln, NE	10/10/19	10/09/19
95273	Nestle USA (State/One-Stop)	Aberdeen, SD	10/10/19	10/09/19
95274	Cobham Communications and Connectivity (Workers)	Lewisville, TX	10/11/19	10/10/19
95275	Nestle USA, Inc. (State/One-Stop)	Brooklyn Park, MN	10/11/19	10/10/19
95276	Siltronic Corporation (State/One-Stop)	Portland, OR	10/11/19	10/10/19
95277	Simmons Bedding Company (State/One-Stop)	Fredericksburg, VA	10/11/19	10/10/19
95278	Transim Technology (State/One-Stop)	Portland, OR	10/11/19	10/10/19
95279	Cisco System Inc. (State/One-Stop)	Lawrenceville, GA	10/15/19	10/08/19
95280	Haldex Brake Products Corporation (State/One-Stop)	Kansas City, MO	10/15/19	10/11/19
95281	John Deere Davenport Works (State/One-Stop)	Davenport, IA	10/15/19	10/11/19
95282	Joyson Safety Systems (State/One-Stop)	Knoxville, TN	10/15/19	10/11/19
95283	Bayou Steel Group (State/One-Stop)	Harriman, TN	10/16/19	10/15/19
95284	Carlisle Internconnect Technologies-Tri Star Technologies (Company)	Riverside, CA	10/16/19	10/15/19
95285	Dee Incorporated (State/One-Stop)	Crookston, MN	10/16/19	10/15/19
95286	Nestle USA (State/One-Stop)	North Little Rock, AR	10/16/19	10/15/19
95287	Newell Brands (State/One-Stop)	South Deerfield, MA	10/16/19	10/11/19
95288	Hand Held Products—Subsidiary of Honeywell (State/One-Stop)	Cedar Rapids, IA	10/17/19	10/16/19
95289	Hydro Extrusion North America, LLC (State/One-Stop)	Kalamazoo, MI	10/17/19	10/16/19
95290	Aprima Medical Software (Workers)	Richardson, TX	10/18/19	10/17/19
95291	Caterpillar (State/One-Stop)	Peoria, IL	10/18/19	10/15/19
95292	Citibank (State/One-Stop)	Kansas City, MO	10/18/19	10/17/19
95293	Conduent Commercial Solutions, LLC (State/One-Stop)	Boca Raton, FL	10/18/19	10/17/19
95294	Gardner Denver (State/One-Stop)	Altoona, PA	10/18/19	10/17/19
95295	Ignite Holdings, LLC (State/One-Stop)	Winchester, VA	10/18/19	10/17/19
95296	Leadec (State/One-Stop)	Warren, OH	10/18/19	10/17/19
95297	Providence St. Joseph Health (State/One-Stop)	Portland, OR	10/18/19	10/17/19
95298	Smith & Nephew (State/One-Stop)	Plymouth, MN	10/18/19	10/17/19
95299	Vistra Energy Corporation (Workers)	Havana, IL	10/18/19	10/17/19
95300	VML Inc. (State/One-Stop)	Kansas City, MO	10/18/19	10/17/19
95301	Ball Metalpack Company (State/One-Stop)	Springdale, AR	10/21/19	10/18/19
95302	Interlake Mecalux (State/One-Stop)	Melrose Park, IL	10/21/19	10/18/19
95303	JPMorgan Chase Bank, NA (Workers)	Neenah, WI	10/21/19	10/20/19
95304	Northwest Hardwoods Inc. (State/One-Stop)	Front Royal, VA	10/21/19	10/18/19
95305	Remington Arms Company, Inc. (State/One-Stop)	Ilion, NY	10/21/19	10/18/19
95306	CenturyLink (State/One-Stop)	Minneapolis, MN	10/22/19	10/21/19
95307	Fred's—Retail Location East Dublin, GA (Workers)	East Dublin, GA	10/22/19	10/18/19
95308	Hewlett Packard (State/One-Stop)	Andover, MA	10/22/19	10/21/19
95309	Kolber-Pioneer Inc. (KPI) (Astec) (State/One-Stop)	Yankton, SD	10/22/19	10/21/19
95310	Shawnee Tubing Industries (State/One-Stop)	Shawnee, OK	10/22/19	10/22/19
95311	Tata Consulting Solutions (for Microsoft) (State/One-Stop)	Bellevue, WA	10/22/19	10/18/19
95312	US Synthetic (State/One-Stop)	Orem, UT	10/22/19	10/21/19
95313	Del Monte Foods (State/One-Stop)	Sleepy Eye, MN	10/23/19	10/22/19
95314	GDI Integrated Facility Service onsite-leased worker through Harley Davidson (State/One-Stop).	Kansas City, MO	10/23/19	10/22/19
95315	IEEE (State/One-Stop)	Piscataway, NJ	10/23/19	10/22/19
95316	Integra (State/One-Stop)	York, PA	10/23/19	10/22/19
95317	Lootcrate (State/One-Stop)	Vernon, CA	10/23/19	10/22/19
95318	Syncreon on-site leased worker through Harley-Davidson (State/One-Stop)	Kansas City, MO	10/23/19	10/22/19
95319	Kelly Services on-site leased workers through Harley-Davidson (State/One-Stop).	Kansas City, MO	10/24/19	10/23/19
95320	Loot Crate Inc. (State/One-Stop)	Lock Haven, PA	10/24/19	10/23/19
95321	Merit Gear LLC (Workers)	Antigo, WI	10/24/19	10/23/19
95322	Pacific Recycling Inc. (State/One-Stop)	Eugene, OR	10/24/19	10/23/19
95323	Prologistics on-site leased workers through Harley-Davidson (State/One-Stop).	Kansas City, MO	10/24/19	10/23/19
95324	Citigroup (Workers)	Gray, TN	10/25/19	10/24/19
95325	HWI Environmental Technologies, Inc. (State/One-Stop)	St. Louis, MO	10/25/19	10/24/19
95326	Jaguar Land Rover North America, LLC (State/One-Stop)	Mahwah, NJ	10/25/19	10/24/19
95327	Dreyer's Ice Cream (State/One-Stop)	Eugene, OR	10/25/19	10/24/19
95328	The Yankee Candle Company, owned by Newell Brands (Newell Operating Co.) (State/One-Stop).	South Deerfield, MA	10/25/19	10/24/19
95329	General Motors Renaissance Center (State/One-Stop)	Detroit, MI	10/28/19	10/25/19
95330	Tallie, Inc, dba Springahead, Inc, dba Certify Inc. (Workers)	Walnut Creek, CA	10/28/19	10/27/19
95331	Tenneco (Fna Federal-Mogul) (State/One-Stop)	Lake City, MN	10/28/19	10/25/19
95332	Barber Steel Foundry (State/One-Stop)	Rothbury, MI	10/29/19	10/28/19
95333	Cameron International (State/One-Stop)	Ville Platte, LA	10/29/19	10/28/19
95334	Investors Bank (State/One-Stop)	Iselin, NJ	10/29/19	10/28/19

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
95335	Omron Automotives Electronics (Workers)	Saint Charles, IL	10/29/19	10/28/19
95336	Appvion d.b.a Roaring Spring Pulp and Paper Mill (State/One-Stop)	Roaring Spring, PA	10/30/19	10/29/19
95337	Baker Corporation (State/One-Stop)	Seal Beach, CA	10/30/19	10/29/19
95338	Refinitive (State/One-Stop)	Eagan, MN	10/30/19	10/29/19
95339	Tower International, Inc. (State/One-Stop)	Livonia, MI	10/30/19	10/29/19
95340	Realogy (State/One-Stop)	Danbury, CT	10/31/19	10/30/19

[FR Doc. 2019–25492 Filed 11–22–19; 8:45 am]

BILLING CODE 4510–FN–P

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 *October 1, 2019 through October 31, 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
94,903	Tahari ASL	Millburn, NJ	October 30, 2017.
94,995	John Hassall, LLC	Westbury, NY	July 15, 2018.
95,023	AJ Oster, LLC, Global Brass & Copper, Monroe Staffing, Randstad	Warwick, RI	July 30, 2018.
95,057	Congoleum Corporation—Marcus Hook	Trainer, PA	August 9, 2018.
95,074	Pace Industries, Inc., St. Paul (Metalcraft) Division, Pace Industries LLC.	Arden Hills, MN	August 13, 2018.
95,077	Omnimax International, Inc., Specialty Division, Omnimax Holdings, Inc	Helena, AR	August 15, 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
94,684	Superior Industries International, TEC, WorkSource	Fayetteville, AR	April 1, 2018.
94,780	Target Corporation, Finance Process & Technology Division	Minneapolis, MN	May 2, 2018.
94,780A	Target Corporation, Financial Accounting & Reporting Division	Minneapolis, MN	May 2, 2018.
94,780B	Target Corporation, Finance Operations Division	Minneapolis, MN	May 2, 2018.
94,806	Sysco Hampton Roads Inc., Finance Division	Suffolk, VA	May 10, 2018.
94,843	Sabre GLBL Inc., Airline Solutions, Professional Services and Consulting Organization, etc.	Southlake, TX	May 23, 2018.
94,985	Sphera Solutions Inc., Genstar Capital, Ascent, TMA Resources	Chicago, IL	July 8, 2018.
95,022	Glen Gery Corporation, Brickworks NA, Labor Finders	Manassas, VA	July 30, 2018.
95,035	Adidas America Inc., Finance/Expense Management, Adidas AG, Apex Systems, Tek Systems, etc.	Portland, OR	August 1, 2018.
95,050	Selectra Industries Corporation	Vernon, CA	August 6, 2018.
95,054	Goodman Company, L.P., Sheet Metal Stamped Parts Division, Fayetteville Facility.	Fayetteville, TN	August 7, 2018.
95,078	Briggs & Stratton Corporation, Global Engines & Power Division, Murray Plant, Hamilton Ryker.	Murray, KY	August 15, 2018.
95,100	iHealth Solutions, LLC dba Advantum Health	Louisville, KY	August 21, 2018.
95,108	MC Electronics, LLC	Hollister, CA	August 22, 2018.
95,119	Riverbend Foods LLC	Pittsburgh, PA	August 23, 2018.
95,126	Insourcing Specialists Inc., Columbia Forest Products, Manpower	Salem, OR	August 27, 2018.
95,150	Bridgestone Americas, Inc., Shared Business Services, Kelly Services, Robert Half, Insight Global.	Antioch, TN	September 5, 2018.
95,158	Keystone Powered Metal Company, Sumitomo Electric Sintered Alloy, Ltd.	St. Marys, PA	August 26, 2018.
95,167	West Corporation, West Unified Communications Services, Inc., West Facilities, LCC, etc.	Manassas, VA	September 9, 2018.
95,186	Westech Building Products (Evansville) LLC, Westlake Chemical Company.	Mount Vernon, IN	September 16, 2018.
95,189	TI Fluid Systems, FTDS division, TI Group Automotive Systems, LLC, Elwood Staffing, Benchmark.	Greeneville, TN	September 16, 2018.
95,191	MTBC-Med, Incorporated, MTBC Incorporated	Somerset, NJ	April 14, 2019.
95,195	Trelleborg Coated Systems, Printing Solutions Division, Second LAC, Inc.	Morristown, TN	September 19, 2018.
95,196	West Corporation, West Unified Communications Services, Inc., West Facilities, LCC, etc.	West Point, GA	September 19, 2018.

TA–W No.	Subject firm	Location	Impact date
95,197	Comscore-Portland, Comscore, Inc	Portland, OR	September 20, 2018.
95,197A	Comscore-Reston, Comscore, Inc	Reston, VA	September 20, 2018.
95,198	IBM Cognitive Applications, IBM Research division, IBM	Beaverton, OR	September 20, 2018.
95,199	Kennametal Inc	Irwin, PA	September 23, 2018.
95,216	TTEC Healthcare Solutions, Inc., TTEC Holdings, Inc	Temple, TX	September 24, 2018.
95,217	U.S. Bank, National Association, Consumer & Business Banking Operations Unit, Foreclosure, etc.	Owensboro, KY	September 23, 2018.
95,220	Harman Becker Automotive Systems, HW Validation-Environmental Test, Harman International, Tata, Acro.	Farmington Hills, MI	September 25, 2018.
95,222	Ortho-Clinical Diagnostics, Inc., Ortho-Clinical Diagnostics Bermuda Co. Ltd., Agile 1.	Raritan, NJ	September 24, 2018.
95,224	U.S. Bank National Association, Consumer & Business Banking Operations Unit, etc.	Irving, TX	September 25, 2018.
95,233	Wells Fargo Bank N.A., Wells Fargo & Company, Payments, Virtual Solutions and Innovation, etc.	Shoreview, MN	September 27, 2018.
95,242	Teva Pharmaceuticals USA, Inc., US TAPI Missouri Division, Teva Pharmaceutical Industries Ltd.	Mexico, MO	October 1, 2018.
95,246	Cochlear Americas, Service & Repair, Cochlear Limited	Centennial, CO	October 2, 2018.
95,252	USF Reddaway Inc., Corporate Division, YRC Worldwide, Integrity Staffing Solutions, etc.	Tualatin, OR	June 23, 2019.
95,257	Philips Healthcare, Invivo Manufacturing Division	Pewaukee, WI	October 4, 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
95,116	Concentrix CVG Customer Management Group Inc., MSS Program, Concentrix CVG Corporation.	Las Cruces, NM	August 23, 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
95,140	McWane, Inc., AB&I Foundry Division	Oakland, CA	August 29, 2019.

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 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
94,991	Spectrum Oceanic, LLC, Charter Communications, Inc., Charter Communications LLC.	Mililani, HI.	
95,281	John Deere Davenport Works, Construction and Forestry Division	Davenport, IA.	

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
94,497	American Buildings Company, West Division, Magnatrax Corporation, Nucor Corporation.	Carson City, NV.	
94,611	The J.G. Hernandez Company, Collard Rose Optical Company, Essilor Laboratories of America Holding Co.	Whittier, CA.	

TA–W No.	Subject firm	Location	Impact date
94,739	Amphenol Printed Circuits, Amphenol Corporation, Technical Needs	Nashua, NH.	
94,807	Asteelflash USA Corp., Raleigh Plant, Asteelflash Group, ResourceMFG, etc.	Morrisville, NC.	
94,863	Lightspeed Online Research LLC, Kantar Division, Kantar	Bellevue, WA.	
94,916	United Healthcare Services, Inc., Benefits Operations (QuEST), United Health Group Incorporated, etc.	Minnetonka, MN.	
95,054A	Goodman Company, L.P., PTAC Division, Fayetteville Facility	Fayetteville, TN.	
95,061	United Steelworkers Local 8–676	Westernport, MD.	
95,062	United Structures of America, Inc	Portland, TN.	
95,109	Pentair Flow Technologies LLC, Pentair Water Group Inc	Costa Mesa, CA.	
95,162	Norfolk Southern Railway Company, Juniata Locomotive Shop, Norfolk Southern Corporation.	Altoona, PA.	
95,175	Annan Marketing Services, Inc	Overland Park, KS.	
95,194	Coorstek, Inc., Kelly Services, Aerotek	Hillsboro, OR.	
95,208	Norfolk Southern Railway Company, Shaffers Crossing and East End Shop, Norfolk Southern Corporation.	Roanoke, VA.	
95,232	Wells Fargo Bank, N.A., Wells Fargo & Company, Business Payroll Services, DISYS, Randstad, etc.	Bloomington, MN.	
95,259	Norcraft Companies L.P., Fortune Brands Home & Security, Inc., Manpower.	Lynchburg, VA.	
95,304	Northwest Hardwoods Inc., Littlejohn & Company	Front Royal, VA.	

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
94,853	Detroit Renewable Power	Detroit, MI.	
95,192	Nestle USA Inc	Glendale Heights, IL.	

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
95,151	Briggs & Stratton Corporation, Global Engines & Power Division, Murray Plant.	Murray, KY.	
95,240	Workforce Logiq, APC Workforce Solutions LLC	Dallas, TX.	

The following determinations terminating investigations were issued because the petitioning group of workers is covered by an earlier petition that is the subject of an ongoing investigation for which a determination has not yet been issued.

TA–W No.	Subject firm	Location	Impact date
95,101	Georgia-Pacific Consumer Operations LLC, Crossett Paper Operations, Georgia Pacific LLC, Koch Industries Inc.	Crossett, AR.	

I hereby certify that the aforementioned determinations were issued during the period of October 1, 2019 through October 31, 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 day 7th of November 2019.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2019–25490 Filed 11–22–19; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

Intention Not To Request, Accept, or Use Employer Information Report (EEO–1) Component 2 Data

AGENCY: Office of Federal Contract Compliance Programs.

ACTION: Notice.

SUMMARY: The U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) and the Equal Employment Opportunity Commission (EEOC) collect workforce data through the Employer Information Report (EEO–1) (currently OMB Control No. 3046–0007) under the Joint Reporting Committee. The EEOC's legal authority to collect this data derives from Title VII of the Civil Rights Act, and OFCCP's authority derives from Executive Order 11246. The EEO–1 collects information from private employers and federal contractors regarding the number of employees by job category, and by sex, race, and ethnicity (Component 1). This information is shared between the two agencies to avoid duplicative information collections and minimize the burden on employers. A recent court decision, *National Women's Law Center* v. *Office of Management and Budget,* 358 F. Supp. 3d 66 (D.D.C. 2019), *appeal docketed, No. 19–5130 (D.C. Cir. May 8, 2019),* ordered reinstatement of the approval by the Office of Management and Budget (OMB) of a 2016 revision to the EEO–1 that requires filers to additionally submit aggregated employee pay and hours worked (Component 2). However, EEOC, the agency responsible for securing OMB approval of the EEO–1 data collection under the Paperwork Reduction Act, has now given notice that it does not intend to submit to OMB a request to renew Component 2 under the current OMB control number, and it has requested that Component 1 be assigned a new OMB control number. OFCCP will not request, accept, or use Component 2 data, as it does not expect to find significant utility in the data given limited resources and its aggregated nature, but it will continue to receive EEO–1 Component 1 data.

DATES: This action is effective immediately.

FOR FURTHER INFORMATION CONTACT: Harvey D. Fort, Deputy Director, Division of Policy and Program Development, Office of Federal Contract Compliance Programs, Room C–3325, 200 Constitution Avenue NW, Washington, DC 20210. Telephone: (202) 693–0103 (voice) or (202) 693–1337 (TTY) (these are not toll-free numbers). Copies of this notice may be obtained in alternative formats (large print, braille, audio recording) upon request by calling the numbers listed above.

SUPPLEMENTARY INFORMATION: OFCCP administers and enforces Executive Order 11246, as amended (E.O. 11246), which applies to federal contractors and subcontractors. Executive Order 11246 prohibits employment discrimination and requires affirmative action to ensure equal employment opportunity regardless of race, color, religion, sex, sexual orientation, gender identity, or national origin. It also prohibits federal contractors and subcontractors from discriminating against applicants and employees for asking about, discussing, or sharing information about their pay or the pay of their co-workers, subject to certain limitations.

OFCCP has reviewed the parameters of the EEO–1 Component 2 data collection and has determined that it does not find Component 2 data necessary to accomplish its mission to ensure federal contractors are not engaged in unlawful pay discrimination. This data is collected in a format that is highly aggregated. Although the data could potentially inform OFCCP's scheduling process for compliance evaluations, it is too broad to provide much utility to OFCCP. The data is not collected at a level of detail that would enable OFCCP to make comparisons among similarly situated employees as required by the Title VII standards that OFCCP applies in administering and enforcing Executive Order 11246. OFCCP receives up-to-date, employee-level pay data from contractors that are selected for compliance evaluations. This data enables OFCCP to identify disparities in pay that may violate Executive Order 11246 by comparing the pay of employees who are similarly situated under the contractors' pay practices. Therefore, OFCCP does not need the EEO–1 Component 2 pay data for that purpose.

Analyzing EEO–1 Component 2 pay data would therefore put an unnecessary financial burden on OFCCP. The agency's limited resources do not support the enhanced scope of review of employer practices or provide the human capital and technical capacity that would be required to make use of the data.

Given the limited utility of the data for OFCCP's purposes within the constraints of OFCCP's available resources, OFCCP will not request or accept EEO–1 Component 2 data. OFCCP will continue to receive EEO–1 Component 1 data from covered contractors and subcontractors through the Joint Reporting Committee for purposes of reviewing their compliance with Executive Order 11246 and its implementing regulations, including the reporting requirements at 41 CFR 60–1.7.

Harvey D. Fort,

Deputy Director, Division of Policy and Program Development, Office of Federal Contract Compliance Programs.

[FR Doc. 2019–25458 Filed 11–22–19; 8:45 am]

BILLING CODE 4510–CM–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Application for a Permit To Fire More Than 20 Boreholes and/or for the Use of Nonpermissible Blasting Units, Explosives, and Shot-Firing Units; Posting Notices of Misfires

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Mining Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Application for a Permit to Fire More than 20 Boreholes and/or for the Use of Nonpermissible Blasting Units, Explosives, and Shot-Firing Units; Posting Notices of Misfires'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before December 26, 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=201909-1219-002* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email:

OIRA_submission@omb.eop.gov. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor–OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the ''Application for a Permit to Fire More than 20 Boreholes and/or for the Use of Nonpermissible Blasting Units, Explosives, and Shot-firing Units; Posting Notices of Misfires'' information collection. Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal and metal and nonmetal mines.

Under Section 313 of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 873, any explosives used in underground coal mines must be permissible. The Mine Act also provides that, under safeguards prescribed by the Secretary, a mine operator may permit the firing of more than 20 shots and the use of nonpermissible explosives in sinking shafts and slopes from the surface in rock. Title 30 CFR 75.1321 outlines the procedures by which a permit may be issued for the firing of more than 20 boreholes and/or the use of nonpermissible shot-firing units in underground coal mines. In those instances in which there is a misfire of explosives, section 75.1327 requires that a qualified person post each accessible entrance to the affected area with a warning to prohibit entry. Section 77.1909–1 outlines the procedures by which a coal mine operator may apply for a permit to use nonpermissible explosives and/or shot-firing units in the blasting of rock while sinking shafts or slopes for underground coal mines. The DOL obtains OMB approval for this information collection under OMB Control No. 1219–0025.

OMB authorization for an ICR cannot be for more than three (3) years without renewal and the current approval for this collection will expire on November 30, 2019. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, reference the 60-day notice published in the **Federal Register** on September 11, 2019 (84 FR 47971).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0025. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility:
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–MSHA.

Title of Collection: Application for a Permit to Fire More than 20 Boreholes and/or for the Use of Nonpermissible Blasting Units, Explosives, and Shot-firing Units; Posting Notices of Misfires.

OMB Control Number: 1219–0025.

Affected Public: Private Sector: Businesses or other for-profits.

Total Estimated Number of Respondents: 17.

Total Estimated Number of Responses: 32.

Total Estimated Annual Time Burden: 31 hours.

Total Estimated Annual Other Costs Burden: $115.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: November 15, 2019.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2019–25459 Filed 11–22–19; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Wage and Hour Division

Agency Information Collection Activities; Comment Request; Information Collections: Report of Construction Contractor's Wage Rates

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that 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 on respondents can be properly assessed. Currently, the Wage and Hour Division is soliciting comments concerning its proposed extension of the Office of Management and Budget (OMB) approved information collection request (ICR) titled, ''Report of Construction Contractor's Wage Rates.'' A copy of the proposed information collection request can be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before January 24, 2020.

ADDRESSES: You may submit comments identified by Control Number 1235–0015, by either one of the following methods: *Email: WHDPRAComments@dol.gov; Mail, Hand Delivery, Courier:* Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information

collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Amy DeBisschop, Director, Division of Regulations, Legislation, and Interpretations, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Copies of this notice must be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693–0023 (not a toll-free number). TTY/TDD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. Background: The Davis-Bacon Act (40 U.S.C. 3141, *et seq.*) provides, in part, that every contract in excess of $2,000 to which the United States or the District of Columbia is a party for construction, alteration, and/or repair, which requires or involves the employment of mechanics and/or laborers, shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics that were determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village or other civil subdivision of the State where the work is to be performed. The Administrator of the Wage and Hour Division, through a delegation of authority, is responsible for issuing these wage determinations (WDs). Section 1.3 of Regulations 29 CFR part 1, Procedures for Predetermination of Wage Rates, provides, in part, that for the purpose of making WDs, the Administrator will conduct a continuing program for obtaining and compiling wage rate information. Form WD–10 (Davis-Bacon Wage Survey Report of Construction Contractor's Wage Rates) is used to determine locally prevailing wages under the Davis-Bacon and Related Acts. The wage data collection is a primary source of information and is essential to the determination of prevailing wages. This information collection is currently approved for use through June, 2020.

II. Review Focus: The Department of Labor is particularly interested in comments which:

- 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;
- Enhance the quality, utility, and clarity of the information to be collected;
- 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;
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions: The Department of Labor seeks approval for the extension of this information collection in order to ensure effective administration of the government contract programs.

Type of Review: Extension.

Agency: Wage and Hour Division.

Title: Report of Construction Contractor's Wage Rates.

OMB Numbers: 1235–0015.

Affected Public: Businesses or other for-profits, Federal Government, State, Local, or Tribal Government.

Respondents: 2,731.

Total Annual Responses: 21,029.

Estimated Total Burden Hours: 7,009.

Estimated Time per Response: DOL estimates that respondents spend an average of approximately 20 minutes completing each response.

Frequency: On occasion.

Total Burden Costs: $321,923.

Total Burden Costs (operation/maintenance): $0.

Dated: November 18, 2019.

Amy DeBisschop,

Director, Division of Regulations, Legislation, and Interpretations.

[FR Doc. 2019–25457 Filed 11–22–19; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Division of Coal Mine Workers' Compensation; Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Request for State or Federal Workers' Compensation Information.'' 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 January 24, 2020.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of responses, and estimated total burden, may be obtained free by contacting Anjanette Suggs by telephone at 202–354–9660 or by email at *suggs.anjanette@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, Office of Workers' Compensation Program, Division of Coal Mine Workers' Compensation, Room S3323, 200 Constitution Avenue NW, Washington, DC 20210; by email: *suggs.anjanette@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Anjanette Suggs by telephone at 202–354–9660 or by email at *suggs.anjanette@dol.gov.*

SUPPLEMENTARY INFORMATION: The 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 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 Black Lung Benefits Act (30 U.S.C. 901 et. *seq.*) and its implementing regulations necessitate this information collection. Title 20 CFR

725.535 requires that DOL Black Lung benefit payments to a beneficiary for any month be reduced by any other payments of state or federal benefits for workers' compensation due to pneumoconiosis. *See* 30 U.S.C. 932(g). To ensure compliance with this mandate, the Office of Workers' Compensation Programs' Division of Coal Mine Workers' Compensation must collect information regarding the status of any state or Federal workers' compensation claim, including dates of payments, weekly or lump sum amounts paid, and other fees or expenses paid out for this award, such as attorney fees and related expenses associated with pneumoconiosis. Form CM–905 is used to request the amount of those workers' compensation benefits. This information collection is currently approved for use through February 29, 2020. 30 U.S.C. 901 and 20 CFR 725.535 authorizes 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 the OMB under the PRA approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Written comments will receive consideration, and summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention 1240–0032.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The 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–OWCP.

Type of Review: Extension.

Title of Collection: Request for State or Federal Workers' Compensation Information.

Form: Request for State or Federal Workers' Compensation Information, CM–905.

OMB Control Number: 1240–0032.

Affected Public: Federal government; State, Local, or Tribal Government.

Estimated Number of Respondents: 6,000.

Frequency: Every new claim.

Total Estimated Annual Responses: 6,000.

Estimated Average Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 1,500 hours.

Total Estimated Annual Other Cost Burden: $3,480.

Authority: 30 U.S.C. 901 and 20 CFR 725.535.

Dated: October 10, 2019.

Anjanette Suggs,

Agency Clearance Officer.

[FR Doc. 2019–25460 Filed 11–22–19; 8:45 am]

BILLING CODE 4510–CK–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB.

DATES: Submit comments on or before December 26, 2019.

ADDRESSES: Comments should be addressed to Virginia Burke, FOIA/Privacy Act Officer. Virginia Burke can be contacted by telephone at 202–692–1887 or email at *pcfr@peacecorps.gov*. Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Virginia Burke, FOIA/Privacy Act Officer. Virginia Burke can be contacted by telephone at 202–692–1887 or email at *pcfr@peacecorps.gov*.

SUPPLEMENTARY INFORMATION:

Title: Medical Documentation Request Form.

OMB Control Number: 0420–****.

Type of Request: New.

Affected Public: Individuals.

Respondents Obligation to Reply: Voluntary.

Burden to the Public:

Estimated burden (hours) of the collection of information:

a. *Number of respondents:* 1,000.

b. *Frequency of response:* 1 time.

c. *Completion time:* 10 minutes.

d. *Annual burden hours:* 200 hours.

General Description of Collection: The Peace Corps uses the Medical Documentation Request Form to collect essential information from medical providers and staff to facilitate access of accommodations as required by Section 504 of the Rehabilitation Act. Data collected will be used to validate accommodation needs. These forms are the first documented point of contact between the Peace Corps and its applicants or employees who are in need of accommodations.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on November 18, 2019.

Virginia Burke,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2019–25449 Filed 11–22–19; 8:45 am]

BILLING CODE 6051–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB.

DATES: Submit comments on or before December 26, 2019.

ADDRESSES: Comments should be addressed to Virginia Burke, FOIA/Privacy Act Officer. Virginia Burke can be contacted by telephone at 202–692–1887 or email at *pcfr@peacecorps.gov.* Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Virginia Burke, FOIA/Privacy Act Officer. Virginia Burke can be contacted by telephone at 202–692–1887 or email at *pcfr@peacecorps.gov*.

SUPPLEMENTARY INFORMATION:

Title: Reasonable Accommodation Request Form.

OMB Control Number: 0420–****.

Type of Request: New.

Affected Public: Individuals.

Respondents Obligation to Reply: Voluntary.

Burden to the Public:

Estimated burden (hours) of the collection of information:

a. *Number of respondents:* 1,000.

b. *Frequency of response:* 1 time.

c. *Completion time:* 10 minutes.

d. *Annual burden hours:* 200 hours.

General Description of Collection: The Peace Corps uses the Reasonable Accommodation Request Form to collect essential information from medical providers and staff to facilitate access of accommodations as required by Section 504 of the Rehabilitation Act. Data collected will be used to validate accommodation needs. These forms are the first documented point of contact between the Peace Corps and its applicants or employees who are in need of accommodations.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on November 18, 2019.

Virginia Burke,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2019–25445 Filed 11–22–19; 8:45 am]

BILLING CODE 6051–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB.

DATES: Submit comments on or before December 26, 2019.

ADDRESSES: Comments should be addressed to Virginia Burke, FOIA/Privacy Act Officer. Virginia Burke can be contacted by telephone at 202–692–1887 or email at *pcfr@peacecorps.gov*. Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Virginia Burke, FOIA/Privacy Act Officer. Virginia Burke can be contacted by telephone at 202–692–1887 or email at *pcfr@peacecorps.gov*.

SUPPLEMENTARY INFORMATION:

Title: RPCV Portal.

OMB Control Number: 0420–0558.

Type of Request: Renewal.

Affected Public: Individuals.

Respondents Obligation to Reply: Voluntary.

Burden to the Public:

Estimated burden (hours) of the collection of information:

a. *Number of respondents:* 9,331.

b. *Frequency of response:* 2 times.

c. *Completion time:* 5 minutes.

d. *Annual burden hours:* 4,888 hours.

General Description of Collection: To better serve the Returned Volunteer population and support the Third Goal, 3GL has developed an RPCV Portal that allows Returned Peace Corps Volunteers (RPCVs) to update their contact information, share stories, request official documentation, view their service history, and enroll in outreach and marketing campaigns. The RPCV Portal can only be accessed by Volunteers who have completed their Peace Corps service; neither current Volunteers, Trainees, applicants nor other members of the public will be able to access the system.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on November 18, 2019.

Virginia Burke,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2019–25444 Filed 11–22–19; 8:45 am]

BILLING CODE 6051–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–32 and CP2020–30; MC2020–33 and CP2020–31]

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:* November 27, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or

removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2020–32 and CP2020–30; *Filing Title:* USPS Request to Add Priority Mail Contract 563 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* November 27, 2019.

2. *Docket No(s).:* MC2020–33 and CP2020–31; *Filing Title:* USPS Request to Add Priority Mail Express & Priority Mail Contract 105 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* November 27, 2019.

This Notice will be published in the **Federal Register**.

Darcie S. Tokioka,

Acting Secretary.

[FR Doc. 2019–25560 Filed 11–22–19; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* November 25, 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 November 19, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express & Priority Mail Contract 105 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–33, CP2020–31.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–25469 Filed 11–22–19; 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:* November 25, 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 November 19, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 563 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–32, CP2020–30.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–25470 Filed 11–22–19; 8:45 am]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collections of information to determine (1) the practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

1. *Title and purpose of information collection:* Evidence of Marital Relationship—Living with Requirements; OMB 3220–0021.

Under Sections 2(c) or 2(d) (45 U.S.C. 231a) of the Railroad Retirement Act, an applicant must submit proof of a valid marriage to a railroad employee. In some cases, the existence of a marital relationship is not formalized by a civil or religious ceremony. In other cases, questions may arise about the legal termination of a prior marriage of the employee, spouse, or widow(er). In these instances, the RRB must secure

additional information to resolve questionable marital relationships. The circumstances requiring an applicant to submit documentary evidence of marriage are prescribed in 20 CFR 219.30.

The RRB utilizes Forms G–124, Individual Statement of Marital Relationship; G–124a, Certification of Marriage Information; G–237, Statement Regarding Marital Status; G–238, Statement of Residence; and G–238a, Statement Regarding Divorce or Annulment, to secure the needed information. Forms G–124, G–237, G–238, and G–238a can be completed either with assistance from RRB personnel during an in-office interview or by mail. One response is requested of each respondent. Completion is required to obtain benefits.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (84 FR 48381 on September 13, 2019) required by 44 U.S.C 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Evidence of Martial Relationship—Living with Requirements.

OMB Control Number: 3220–0021.

Forms submitted: G–124, G–124a, G–237, G–238 and G–238a.

Type of request: Revision of a currently approved collection.

Affected public: Individuals or Households; Business or other for Profit.

Abstract: Under the RRA, to obtain a benefit as a spouse of an employee annuitant or as the widow(er) of the deceased employee, an applicant must submit information to be used to determine if the marriage requirements for such benefits have been met. The collection obtains information supporting claimed common-law marriage, termination of previous marriages, and residency requirements.

Changes proposed: The RRB proposes minor non-burden impacting changes to the forms in the collection.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–124 (in person)	125	15	31
G–124 (by mail)	75	20	25
G–124a	300	10	50
G–237 (in person)	75	15	19
G–237 (by mail)	75	20	25
G–238 (in person)	150	3	8
G–238 (by mail)	150	5	13
G–238a	150	10	25
Total	1,100	.....	196

2. *Title and Purpose of information collection:* Medical Reports; OMB 3220–0038.

Under sections 2(a)(1)(iv) and 2(a)(1)(v) of the Railroad Retirement Act (RRA) (45 U.S.C.231a), annuities are payable to qualified railroad employees whose physical or mental condition makes them unable to (1) work in their regular occupation (occupational disability) or (2) work at all (total disability). The requirements for establishing disability and proof of continuing disability under the RRA are prescribed in 20 CFR 220.

Annuities are also payable to (1) qualified spouses and widow(ers) under sections 2(c)(1)(ii)(C) and 2(d)(1)(ii) of the RRA who have a qualifying child who became disabled before age 22; (2) surviving children on the basis of disability under section 2(d)(1)(iii)(C), if the child's disability began before age 22; and (3) widow(er)s on the basis of disability under section 2(d)(1)(i)(B). To meet the disability standard, the RRA provides that individuals must have a permanent physical or mental condition that makes them unable to engage in any regular employment.

Under section 2(d)(1)(v) of the RRA, annuities are also payable to remarried widow(er)s and surviving divorced spouses on the basis of, among other things, disability or having a qualifying disabled child in care. However, the disability standard in these cases is that found in the Social Security Act. That is, individuals must be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment. The RRB also determines entitlement to a Period of Disability and entitlement to early Medicare based on disability for qualified claimants in accordance with Section 216 of the Social Security Act.

When making disability determinations, the RRB needs evidence from acceptable medical sources. The RRB currently utilizes Forms G–3EMP, Report of Medical Condition by Employer; G–197, Authorization to Disclose Information to the Railroad Retirement Board; G–250, Medical Assessment; G–250A, Medical Assessment of Residual Functional Capacity; G–260, Report of Seizure Disorder; RL–11B, Disclosure of Hospital Medical Records; RL–11D, Disclosure of Medical Records from a State Agency; RL–11D1, Request for Medical Evidence from Employers, and RL–250, Request for Medical Assessment, to obtain the necessary medical evidence. One response is requested of each respondent. Completion is required for all forms to obtain benefits except Form RL–11D1, which is voluntary.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (84 FR on September 18, 2019) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Medical Reports.

OMB Control Number: 3220–0038.

Form(s) submitted: G–3EMP, G–197, G–250, G–250a, G–260, RL–11B, RL–11D, RL–11D1, and RL–250.

Type of request: Revision of a currently approved collection of information.

Affected public: Individuals or households; Private Sector; State, Local and Tribal Government.

Abstract: The Railroad Retirement Act provides disability annuities for qualified railroad employees whose physical or mental condition renders them incapable of working in their regular occupation (occupational disability) or any occupation (total disability). The medical reports obtain information needed for determining the nature and severity of the impairment.

Changes proposed: In support of the RRB's Disability Program Improvement Project to enhance/improve disability case processing and overall program integrity, the RRB proposes the addition of proposed Form RL–11D1, Request for Medical Evidence from Employers, to

the information collection. Form RL–11D1 will be mailed by an RRB field office to railroad employers to obtain any medical evidence regarding the employee's disability that they may have acquired within the last 18 months. A copy of the employee signed Form G–197 will be enclosed with the RL–11D1. The employer will return the RL–11D1 to RRB Headquarters certifying that they either have submitted the requested medical evidence or that they have no medical evidence to submit.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–3EMP	600	10	100
G–197	6,000	10	1,000
G–250	11,950	30	5,975
G–250A	50	20	17
G–260	100	25	42
RL–11B	5,000	10	833
RL–11D	250	10	42
RL–11D1	600	20	200
RL–250	11,950	10	1,992
Total	36,500		10,201

3. *Title and purpose of information collection:* Application to Act as Representative Payee; OMB 3220–0052.

Under Section 12 of the Railroad Retirement Act, the Railroad Retirement Board (RRB) may pay benefits to a representative payee when an employee, spouse or survivor annuitant is incompetent or is a minor. A representative payee may be a court-appointed guardian, a statutory conservator or an individual selected by the RRB. The procedures pertaining to the appointment and responsibilities of a representative payee are prescribed in 20 CFR 266. The forms furnished by the RRB to apply for representative payee status, and for securing the information needed to support the application follow. RRB Form AA–5, *Application for Substitution of Payee,* obtains information needed to determine the selection of a representative payee who will serve in the best interest of the beneficiary. RRB Form G–478, *Statement Regarding Patient's Capability to Manage Benefits,* obtains information about an annuitant's capability to manage their own benefits. The form is completed by the annuitant's personal physician or by a medical officer, if the annuitant is in an institution. It is not required when a court has appointed an individual or institution to manage the annuitant's funds or, in the absence of such appointment, when the annuitant is a minor. The RRB also provides representative payees with a booklet at the time of their appointment. The booklet, RRB Form RB–5, *Your Duties as Representative Payee-Representative Payee's Record,* advises representative payees of their responsibilities under 20 CFR 266.9 and provides a means for the representative payee to maintain records pertaining to the receipt and use of RRB benefits. The booklet is provided for the representative payee's convenience. The RRB also accepts records that are kept by representative payees as part of a common business practice. Completion is voluntary. One response is requested of each respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (84 FR 48381 on September 13, 2019) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Application to Act as Representative Payee.

OMB Control Number: 3220–0052.

Forms submitted: AA–5, G–478, and RB–5.

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or Households; Business or other for Profit.

Abstract: Under Section 12 of the Railroad Retirement Act, the Railroad Retirement Board (RRB) may pay benefits to a representative payee when an employee, spouse or survivor annuitant is incompetent or is a minor. The collection obtains information related to the representative payee application, supporting documentation and the maintenance of records pertaining to the receipt and use of benefits.

Changes proposed: The RRB is proposing no changes to Forms AA–5, G–478, and the RB–5 booklet.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
AA–5	3,000	18	900.0
Individuals	2,250		675.0
Institutions	750		225.0
G–478	2,000	6	200.0
RB–5	15,300	60	15,300
Individuals	11,475		11,475
Institutions	3,825		3,825
Total	20,300		16,350

4. *Title and purpose of information collection:* Employer Service and Compensation Reports; OMB 3220–0070.

Section 2(c) of the Railroad Unemployment Insurance Act (RUIA) specifies the maximum normal

unemployment and sickness benefits that may be paid in a benefit year. Section 2(c) further provides for extended benefits for certain employees and for beginning a benefit year early for other employees. The conditions for these actions are prescribed in 20 CFR 302.

All information about creditable railroad service and compensation needed by the RRB to administer Section 2(c) is not always available from annual reports filed by railroad employers with the RRB (OMB 3220–0008). When this occurs, the RRB must obtain supplemental information about service and compensation.

The RRB utilizes Form UI–41, *Supplemental Report of Service and Compensation,* and Form UI–41a, *Supplemental Report of Compensation,* to obtain the additional information about service and compensation from railroad employers. Completion of the forms is mandatory. One response is required of each respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (84 FR 48381 on September 13, 2019) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Employer Service and Compensation Reports.

OMB Control Number: 3220–0070.

Forms submitted: UI–41 and UI–41a.

Type of request: Revision of a currently approved collection.

Affected public: Private Sector; Businesses or other for profits.

Abstract: The reports obtain the employee's service and compensation for a period subsequent to those already on file and the employee's base year compensation. The information is used to determine the entitlement to and the amount of benefits payable.

Changes proposed: The RRB proposes minor non-burden impacting changes to Form UI–41a.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
UI–41	100	8	13
UI–41a	50	8	7
Total	150		20

5. *Title and purpose of information collection:* Repayment of Debt; OMB 3220–0169. When the Railroad Retirement Board (RRB) determines that an overpayment of Railroad Retirement Act or Railroad Unemployment Insurance Act benefits has occurred, it initiates prompt action to notify the annuitant of the overpayment and to recover the money owed the RRB. To effect payment of a debt by credit card, the RRB utilizes Form G–421F, Repayment by Credit Card. The RRB's procedures pertaining to benefit overpayment determinations and the recovery of such benefits are prescribed in 20 CFR 255 and 340.One form is completed by each respondent. Completion is voluntary.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (84 FR 48381 on September 13, 2019) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Repayment of Debt.

OMB Control Number: 3220–0169.

Form(s) submitted: G–421F.

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or Households.

Abstract: When the RRB determines that an overpayment of benefits under the Railroad Retirement Act or Railroad Unemployment Insurance Act has occurred, it initiates action to notify the claimant of the overpayment and to recover the amount owed. The collection obtains information needed to allow for repayment by the claimant by credit card, in addition to the customary form of payment by check or money order.

Changes proposed: The RRB proposes no changes to Form G–421F.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
Form G–421F (RRA) activity	360	5	30
Form G–421F (RUIA) activity	175	5	15
Total	535		45

6. *Title and purpose of information collection:* Customer Satisfaction Monitoring; OMB 3220–0192.

In accordance with Executive Order 12862, the Railroad Retirement Board (RRB) conducts a number of customer surveys designed to determine the kinds and quality of services our beneficiaries, claimants, employers and members of the public want and expect, as well as their satisfaction with existing RRB services. The information collected is used by RRB management to monitor customer satisfaction by determining to what extent services are satisfactory and where and to what extent services can be improved. The surveys are limited to data collections that solicit strictly voluntary opinions, and do not collect information which is required or regulated. The information collection, which was first approved by the Office of Management and Budget (OMB) in 1997, provides the RRB with a generic clearance authority. This generic authority allows the RRB to submit a variety of new or revised customer survey instruments (needed to timely implement customer monitoring activities) to the Office of Management and Budget (OMB) for expedited review and approval.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (84 FR 48381 September 13, 2019) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Customer Satisfaction Monitoring.

OMB Control Number: 3220–0192.

Form(s) submitted: G–201.

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or Households.

Abstract: The Railroad Retirement Board (RRB) utilizes voluntary customer surveys to ascertain customer satisfaction with the RRB in terms of timeliness, appropriateness, access, and other measures of quality service. Surveys involve individuals that are direct or indirect beneficiaries of RRB services as well as railroad employers who must report earnings.

Changes proposed: The RRB proposes no changes to Form G–201.

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–201	50	2	2
Web-Site Survey	300	5	25
Periodic Survey	1,020	12	204
Focus Groups	250	120	500
Total	1,620		731

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Kennisha Tucker at (312) 469–2591 or *Kennisha.Tucker@rrb.gov.*

Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–1275 or *Brian.Foster@rrb.gov* and to the OMB Desk Officer for the RRB, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

Stephanie Hillyard,

Secretary to the Board.

[FR Doc. 2019–25497 Filed 11–22–19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87573; File No. SR–NYSECHX–2019–19]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adopting Rules Relating to Order Audit Trail System Requirements

November 19, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 6, 2019, the NYSE Chicago, Inc. (''NYSE Chicago'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt rules relating to Order Audit Trail System requirements, and amend Article 11, Rule 4 in anticipation of the Exchange's transition to trading to the Pillar trading platform. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt rules relating to Order Audit Trail System (''OATS'') requirements, and amend Article 11, Rule 4 in anticipation of the Exchange's transition to trading to the Pillar trading platform.[4] Pillar is an integrated trading technology platform designed to use a single specification for connecting to the equites and options markets operated by the Exchange and its affiliates, NYSE Arca, Inc. (''NYSE Arca''), NYSE American, LLC (''NYSE American''), NYSE National, Inc. (''NYSE National''), and New York Stock Exchange LLC (''NYSE'') (the ''Affiliated Exchanges'').

Background

In July 2018, the Exchange and its direct parent company were acquired by NYSE Group, Inc. (''Transaction'').[5] As a result of the Transaction, the Exchange became part of a corporate family including the Affiliated Exchanges. Following the Transaction, the Exchange continued to operate as a separate self-regulatory organization with rules, membership rosters and listings distinct from the rules, membership rosters and listings of the other Affiliated Exchanges.

The Exchange recently adopted the rule numbering framework of NYSE National rules, which are organized in 13 Rules.[6] In addition, the Exchange has amended its rules to support the transition of trading in Tape A, Tape B, and Tape C-listed securities from its current trading platform to a fully automated price-time priority allocation model that operates on the Pillar trading

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange has announced that, subject to rule approvals, it will transition to trading on Pillar on November 4, 2019. *See* Trader Update, available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-chicago/NYSE_Chicago_Migration.pdf.* The Exchange originally filed the proposed rule change on October 31, 2019 (SR–NYSECHX–2019–17) and withdrew such filing on November 6, 2019, and is now submitting this proposed rule change to include additional specificity.

[5] *See* Securities Exchange Act Release No. 83635 (July 13, 2018), 83 FR 34182 (July 19, 2018) (SR–CHX–2018–004); *see also* Securities Exchange Act Release No. 83303 (May 22, 2018), 83 FR 24517 (May 29, 2018) (SR–CHX–2018–004).

[6] *See* Securities Exchange Act Release No. 85297 (March 12, 2019), 84 FR 9854 (March 18, 2019) (SR–NYSECHX–2019–03) (Notice of Filing and Immediate Effectiveness) (''Framework Filing'').

platform.[7] As part of this transition, the Exchange will continue to support Institutional Brokers, as provided for under Article 17, and is updating the Brokerplex system, which is described in Article 17, Rule 5, to interface with the Pillar trading platform.[8]

As described in the Framework Filing, Rule 0 currently provides that the Exchange and FINRA are parties to a Regulatory Services Agreement (''RSA'') pursuant to which FINRA has agreed to perform certain regulatory functions of the Exchange on behalf of the Exchange.[9] The Exchange notes that pursuant to the RSA, FINRA will perform certain regulatory surveillance of trading activity on the Exchange and conduct various regulatory services on behalf of the Exchange, similar to what FINRA has contracted to do for the Affiliated Exchanges. Notwithstanding the RSA, the Exchange will retain legal responsibility for the regulation of its members and its market and the performance of FINRA as its regulatory services provider.

Because of both the transition to the Pillar trading platform and the regulatory relationship with FINRA, the Exchange proposes to amend specified rules relating to regulatory reporting requirements. First, the Exchange proposes to add new Rules 6.7400 through 6.7470 that are based on NYSE National OATS rules relating to order audit trail system requirements. These OATS requirements are in turn based on the FINRA OATS requirements, and will facilitate the regulatory relationship with FINRA. Second, the Exchange proposes to decommission one of the systems for Institutional Brokers to report certain trading activity on away markets, as specified in Article 11, Rule 4. With this proposed change, Institutional Brokers will continue to be required to report this trading activity, but will no longer be able to submit this data via regulatory drop copies into Brokerplex.

Proposed Rule 6.7400 (Order Audit Trail System)

The Exchange proposes OATS rules based on NYSE National Rules 6.7400 Series, which in turn are based on the FINRA Rules 7400 Series. The proposed NYSE Chicago Rule 6.7400 Series would consist of proposed Rules 6.7410 through 6.7470, which are based on NYSE National Rules 6.7410 through 6.7470 without any substantive differences. The Exchange proposes non-substantive differences throughout the Rule 6.7400 Series to refer to the Exchange instead of NYSE National.

- Proposed Rule 6.7410 (Definitions) would set forth definitions used for purposes of the Rule 6.7400 Series and is based on NYSE National Rule 6.7410 without any substantive differences other than to refer to Exchange members as Participants rather than ETP Holders.
- Proposed Rule 6.7420 (Applicability) would specify that the requirements of the Rule 6.7400 Series are applicable to all Participants and their associated persons and to all NMS Stocks that trade on the Exchange, and is based on NYSE National Rule 6.720 without any differences other than to refer to Exchange members as Participants rather than ETP Holders.
- Proposed Rule 6.7430 (Synchronization of ETP Holder Business Clocks) would require Participants to synchronize business clocks used for purposes of recording the date and time of specified events, and is based on NYSE National Rule 6.7430 without any differences other than to refer to Exchange members as Participants rather than ETP Holders.
- Proposed Rule 6.7440 (Recording of Order Information) would require Participants to comply with FINRA Rule 7440 as if such rule were part of the Exchange's rules and is based on NYSE National Rule 6.7440 without any substantive differences other than to refer to Exchange members as Participants rather than ETP Holders.
- Proposed Rule 6.7450 (Order Data Transmission Requirements) would require Participants to comply with FINRA Rule 7450 as if such rule were part of the Exchange's rules and is based on NYSE National Rule 6.7450 without any substantive differences other than to refer to Exchange members as Participants rather than ETP Holders.
- Proposed Rule 6.7460 (Violation of Order Audit Trail System Rules) would provide that failure of a Participant or associated person to comply with the requirements of proposed Rules 6.7410 through 6.7460 may be considered conduct that is inconsistent with high standards of commercial honor and just and equitable principles of trade. This proposed rule is based on NYSE National Rule 6.7460 with a non-substantive difference to cross reference Article 9, Rule 2, instead of NYSE National Rule 11.3.1 and to refer to an Exchange member as a Participant rather than an ETP Holder.
- Proposed Rule 6.7470 (Exemption to the Order Recording and Data Transmission Requirements) would provide for how a Participant may apply for an exemption from the Rule 6.7400 Series and is based on NYSE National Rule 6.7470–E without any differences other than to refer to an Exchange member as a Participant rather than an ETP Holder. Proposed Rule 6.7470(c) provides that the rule would be in effect until November 15, 2019, the date prescribed by the National Market System Plan Governing the Consolidated Audit Trail (''CAT NMS Plan'').

The Exchange does not currently require its Participants to maintain order information pursuant to an order tracking system and therefore, does not have the OATS rules or similar rules in its rulebook. The Exchange does not believe that requiring Participants to comply with the OATS requirements would impose an undue burden on such Participants or its associated persons. In fact, Participants that are also FINRA members (''Dual Members'') are already be subject to FINRA's OATS requirements. Similarly, because the Affiliated Exchanges have rules based on the FINRA OATS requirements, Participants that are not members of FINRA, but are members of the Affiliated Exchanges will already be subject to such OATS requirements.[10] To the extent an Exchange Participant is not also a member of FINRA, one of the Affiliated Exchanges, or Nasdaq (which also requires compliance with FINRA OATS requirements), the Exchange believes that the OATS requirements for non-FINRA members are not onerous, as order information pursuant to those rules need only be submitted upon request.[11]

Finally, Institutional Brokers will not have to undertake any additional obligations under the proposed OATS requirements because the Exchange will be providing an OATS-compliant system for Institutional Brokers by

[7] *See* Securities Exchange Act Release No. 87264 (October 9, 2019), 84 FR 55345 (October 16, 2019) (SR–NYSECHX–2019–08) (Approval Order).

[8] The term ''Institutional Broker'' is defined in Article 1, Rule 1(n) to mean a member of the Exchange who is registered as an Institutional Broker pursuant to the provisions of Article 17 and has satisfied all Exchange requirements to operate as an Institutional Broker on the Exchange.

[9] *See* Rule 0 (Regulation of the Exchange and Participants). The rule also provides that notwithstanding the fact that the Exchange has entered into an RSA with FINRA to perform certain of the Exchange's functions, the Exchange shall retain ultimate legal responsibility for, and control of, such functions.

[10] The Affiliated Exchanges all have substantially similar requirements and the proposed rules are similar to the rules adopted by the Affiliated Exchanges. *See* NYSE Rules 7410 through 7470; NYSE Arca Rules 6.7410–E through 6.7470–E; NYSE American Rules 7410–Equities through 7470–Equities; and NYSE National Rules 6.7410 through 6.7470. *See also* Nasdaq Rule 7400A Series.

[11] *See* proposed Rule 6.7450(b).

updating Brokerplex to automatically capture and report to FINRA the OATS requirements.[12] Accordingly, if an Institutional Broker has not previously been a member of either FINRA or an Affiliated Exchange that has OATS requirements, such Institutional Broker will be able to comply with the OATS requirements. The Exchange-provided OATS system for Institutional Brokers will be available contemporaneous with the transition to trading on the Pillar trading platform.

The Exchange believes that requiring Participants to comply with the OATS rules will further promote cross-market surveillance and enhance FINRA's ability to conduct surveillance and investigations for the Exchange under the RSA. The proposed sub-numbering of the OATS Rules (*i.e.,* 7410–7470) mirrors the rule numbers for the OATS rules on FINRA, NYSE, and NYSE National.

Proposed Decommissioning of Exchange-Provided Regulatory Reporting Systems

The Exchange currently provides a system that facilitates the ability for Participants to provide reports of specified off-exchange trading activity to the Exchange, as described in Interpretation and Policies .01 to Article 11, Rule 4. The only Participants that use this regulatory reporting system are the Institutional Brokers. With the transition to Pillar, the Exchange proposes to decommission this regulatory reporting system and amend the rules that require use of this specific system. This proposed rule change does not change in any way Institutional Brokers' obligations to maintain records of off-exchange trading activity and report such activity to the Exchange.[13]

Specifically, Interpretation and Policies .01 to Article 11, Rule 4 provides that Participants shall not use any electronic means of communication for sending orders from the Exchange to trade in another market or trading venue (which is defined as a ''layoff service''), until the Participant or the layoff service provider has established a process for providing the Exchange with specific information relating to the off-Exchange trading activity on a real time basis in an electronic format acceptable to the Exchange.[14] Only Institutional Brokers use such layoff services to engage in single-sided order executions on away markets; such services are unrelated to either qualified contingent trading or contingent trading. The Exchange uses the current Brokerplex system to support reporting of these regulatory ''drop copies'' from a layoff service.

With the transition to Pillar, the Exchange proposes to decommission the system in Brokerplex that receives regulatory drop copies of off-exchange trading from a layoff service, as described in Interpretation and Policies .01 to Article 11, Rule 4. The Exchange therefore proposes to amend Interpretation and Policies .01 to Article 11, Rule 4 to delete the requirement that Institutional Brokers provide the specified information on a real-time basis in an electronic format acceptable to the Exchange. In lieu of the current system, the Exchange proposes that it will require any Institutional Broker that engages in this trading activity to provide reports of such activity in a format acceptable to the Exchange within a time frame designated by the Exchange, which generally would be not later than trade date plus one day.[15]

Accordingly, with this proposed rule change, Institutional Brokers will continue to be subject to the requirements of Article 11, Rule 4, which specifies the records that Institutional Brokers must report relating to specified off-exchange trading activity. The proposed rule change eliminates only the interface with Brokerplex to submit these regulatory drop copies on a real-time basis. Such reports would still be required to be submitted to the Exchange, albeit in a different format. Because the Exchange does not currently utilize this data to perform this surveillance in real-time, the Exchange believes that it will be able to maintain its existing surveillance coverage with respect to this trading activity and use the new reports that will be provided by Institutional Brokers to monitor this activity. In other words, the Exchange does not need real-time submission of this information to conduct this surveillance.

In addition, with respect to Institutional Brokers that are also members of FINRA, because such firms would be subject to OATS requirements, any trading on a layoff service would be reported via OATS and available to FINRA as well.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[16] in general, and furthers the objectives of Section 6(b)(5),[17] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed Rule 6.7400 Series, relating to Order Audit Trail System, would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule series is based on the approved rules of NYSE National, which are based on FINRA's OATS rules. The Exchange further believes that the proposed OATS rules would promote just and equitable principles of trade as such rules would further promote cross-market surveillance and enhance FINRA's ability to conduct surveillance and investigations for the Exchange under the RSA. The Exchange does not believe that adding the OATS rules to the Exchange would impose a burden on Exchange Participants because Participants that are members of FINRA, one of the Affiliated Exchanges, or Nasdaq, are already subject to OATS requirements under the rules of those SROs. To the extent an Exchange Participant is not also a member of FINRA, one of the Affiliated Exchanges, or Nasdaq, such member would not be subject to ongoing reporting requirements under the proposed OATS rules, and therefore it would not be onerous for such Participants to comply if OATS information were requested in the course of a regulatory inquiry. Finally, because the Exchange will be providing an OATS-compliant system for Institutional Brokers, if an Institutional Broker has not previously been a member of either FINRA or an Affiliated Exchange that has OATS requirements, such Institutional Broker will be able to comply with the OATS requirements.

[12] In preparation for the transition to trading to Pillar, Institutional Brokers have successfully tested the OATS-compliant Brokerplex.

[13] *See* Article 11, Rule 3.

[14] *See* Securities Exchange Act Release No. 52534 (September 29, 2005), 70 FR 58500 (October 6, 2005) (Order Approving Proposed Rule Change and Amendment Nos. 1, 2, and 3 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 4 Thereto Relating to a Prohibition on Using a Layoff Service Unless the Service Provides Required Information to the Exchange) (SR–CHX–2004–25).

[15] *See* NYSE Chicago IM–19–06, dated October 29, 2019, available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-chicago/rule-interpretations/2019/Chicago%20Number%2019-06%2010.29.19.pdf.*

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

The Exchange believes that the proposed amendment to Article 11, Rule 4 would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule change simply decommissions the use of an exchange system that accepts regulatory drop copies that would no longer be available once the Exchange transitions to trading to the Pillar trading platform. The Exchange further believes that the proposed rule change would promote just and equitable principles of trade because Institutional Brokers would still be required to maintain records of off-exchange trading activity as specified in that Rule and report such activity to the Exchange. Because Institutional Brokers would still be providing the Exchange with this data, the Exchange would not be changing its surveillances relating to this trading activity. In addition, because the Exchange does not conduct such surveillances in real time, it does not need real-time submission of data to perform these surveillances.

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. The proposed rule change is not designed to address any competitive issue but rather to provide for rules to support the transition to trading on the Exchange to the Pillar trading platform. The Exchange operates in a highly competitive environment in which its unaffiliated exchange competitors operate multiple affiliated exchanges that operate under common rules. By basing its rules on those of its affiliated exchanges, the Exchange will provide Participants with consistency across affiliated exchanges, thereby enabling the Exchange to compete with unaffiliated exchange competitors that similarly operate multiple exchanges on the same trading platform.

In addition, the Exchange does not believe that the proposed rule change will impose any burden on competition on Participants that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange has proposed non-trading rules based on those of its affiliates, *e.g.,* OATS rules. For those Participants that are already members of FINRA, an affiliated exchange, or Nasdaq, such Participants are already familiar with such rules in connection with their membership on those SROs. In addition, the Exchange will be providing an OATS-compliant system for Institutional Brokers; therefore, if an Institutional Broker has not previously been a member of either FINRA or an Affiliated Exchange that has OATS requirements, such Institutional Broker will be able to comply with the OATS requirements. Moreover, these proposed rules would provide for greater harmonization among SROs of the rules for investigations and disciplinary matters, resulting in less burdensome and more efficient regulatory compliance for common members and facilitating the Exchange's performance of its regulatory functions. The proposed OATS rules would also facilitate FINRA's performance of cross-market surveillances on behalf of the Exchange.

The Exchange does not believe that amending the regulatory ''drop copy'' rule would impose a burden competition on Institutional Brokers that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule, which will apply equally to all Institutional Brokers, merely deletes the requirement that Institutional Brokers provide information related to their off-exchange trading activity on a real-time basis in an electronic format acceptable to the Exchange. Institutional Brokers would continue to be required to maintain records of their off-exchange trading activity and in lieu of the current system, Institutional Brokers would be required to provide reports of such activity in a format acceptable to the Exchange within a time frame designated by the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and Rule 19b–4(f)(6) thereunder.[19]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [20] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [21] 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 requested that the Commission waive the 30-day operative delay so that the proposed rule change can become effective contemporaneously with the transition to the Pillar trading platform. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[22]

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–NYSECHX–2019–19 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.

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] 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).

All submissions should refer to File Number SR–NYSECHX–2019–19. 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–NYSECHX–2019–19, and should be submitted on or before December 16, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–25456 Filed 11–22–19; 8:45 am]

BILLING CODE 8011–01–P

[23] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Meeting of the Advisory Committee on Veterans Business Affairs (ACVBA)

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice of open Federal Advisory Committee meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time and agenda for the next meeting of the Advisory Committee on Veterans Business Affairs (ACVBA). The meeting is open to the public. Due to renovations at SBA Headquarters, the meeting will be held at the American Legion Headquarters in Washington, DC.

DATES: Thursday, December 5, 2019, from 9:00 a.m. to 4:00 p.m. EST.

ADDRESSES: The meeting will be held at The American Legion, 1608 K St. NW, Large Conference Room, Washington, DC 20006 and via teleconference and webinar.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however advance notice of attendance is requested. To RSVP and confirm attendance, the general public should email *veteransbusiness@sba.gov* with subject line—''RSVP for December 5, 2019 ACVBA Public Meeting.'' Anyone wishing to make comments to the Advisory Committee on Veterans Business Affairs (ACVBA)must contact SBA's Office of Veterans Business Development (OVBD) no later than November 26, 2019 via email *veteransbusiness@sba.gov,* or Timothy Green, Deputy Associate Administrator, OVBD at (202) 205–6773. Comments for the record will be limited to five minutes to accommodate as many participants as possible.

Special accommodation requests should also be directed to OVBD at (202) 205–6773 or *veteransbusiness@sba.gov.* For more information on veteran owned small business programs, please visit *www.sba.gov/ovbd.*

Participants can join the meeting via teleconference: Join Zoom Meeting *https://legion.zoom.us/j/190076622.*

Meeting ID: 190 076 622
+19292056099,190076622# US (New York)
+16699006833,190076622# US (San Jose)

Dial by your location
+1 929 205 6099 US (New York)
+1 669 900 6833 US (San Jose)
877 853 5257 US Toll-free
888 475 4499 US Toll-free

Find your local number: *https://zoom.us/u/abmxT2ohhz.* To receive copies of meeting documents email your request including the meeting title and date, to *veteransbusiness@sba.gov.* Those attending the meeting are encouraged to arrive early to allow for security clearance into the building.

For security purposes attendees are asked to:

1. RSVP by sending an email to *veteransbusiness@sba.gov* by November 30, 2019.

2. Know the name of the event being attended: The meeting event is the Advisory Committee on Veterans Business Affairs (ACVBA)

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the Advisory Committee on Veterans Business Affairs. The ACVBA is established pursuant to 15 U.S.C. 657(b) note and serves as an independent source of advice and policy. The purpose of this meeting is to discuss efforts that support veteran-owned small businesses, updates on past and current events, and the ACVBA's objectives for fiscal year 2020.

Dated: November 19, 2019.

Nicole Nelson,

Committee Management Officer (Acting).

[FR Doc. 2019–25488 Filed 11–22–19; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16202 and #16203; South Dakota Disaster Number SD–00098]

Presidential Declaration of a Major Disaster for the State of South Dakota

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of South Dakota (FEMA–4469–DR), dated 11/18/2019.

Incident: Severe storms, tornadoes, and flooding.

Incident Period: 09/09/2019 through 09/26/2019.

DATES: Issued on 11/18/2019.

Physical Loan Application Deadline Date: 01/17/2020.

Economic Injury (EIDL) Loan Application Deadline Date: 08/18/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 11/18/2019, applications for disaster loans may be filed at the address listed above or other locally announced locations. The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Brookings, Charles Mix, Davison, Hanson, Hutchinson, Lake, Lincoln, McCook, Minnehaha, Moody, and

Yankton Counties and the Flandreau Santee Indian Reservation and the Yankton Indian Reservation.

Contiguous Counties (Economic Injury Loans Only):

South Dakota: Aurora, Bon Homme, Brule, Clay, Deuel, Douglas, Gregory, Hamlin, Kingsbury, Lyman, Miner, Sanborn, Turner, Union.

Iowa: Lyon, Sioux.

Minnesota: Lincoln, Pipestone, Rock.

Nebraska: Boyd, Cedar, Knox.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.500
Homeowners without Credit Available Elsewhere	1.750
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16202B and for economic injury is 162030.

(Catalog of Federal Domestic Assistance Number 59008)

Cynthia Pitts,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2019–25518 Filed 11–22–19; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

Meeting of the Interagency Task Force on Veterans Small Business Development

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice of open Federal Advisory Committee meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time and agenda for the next meeting of the Interagency Task Force on Veterans Small Business Development (IATF). The meeting is open to the public. Due to renovations at SBA Headquarters, the meeting will be held at the American Legion Headquarters in Washington, DC.

DATES: Wednesday, December 4, 2019, from 1:00 p.m. to 4:00 p.m. EST.

ADDRESSES: The meeting will be held at The American Legion, 1608 K St. NW, Large Conference Room, Washington, DC 20006 and via teleconference and webinar.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however advance notice of attendance is requested. To RSVP and confirm attendance, the general public should email *veteransbusiness@sba.gov* with subject line—''RSVP for December 4, 2019 IATF Public Meeting.'' Anyone wishing to make comments to the Task Force must contact SBA's Office of Veterans Business Development (OVBD) no later than November 26, 2019 via email *veteransbusiness@sba.gov,* or Timothy Green, Deputy Associate Administrator, OVBD at (202) 205–6773. Comments for the record will be limited to five minutes to accommodate as many participants as possible.

Special accommodation requests should also be directed to OVBD at (202) 205–6773 or *veteransbusiness@sba.gov.* For more information on veteran owned small business programs, please visit *www.sba.gov/ovbd.*

Participants can join the meeting via teleconference: Join Zoom Meeting, *https://legion.zoom.us/j/550528684.*

Meeting ID: 550 528 684.

+19292056099, 550528684# US (New York)

+16699006833, 550528684# US (San Jose) Dial by your location

+1 929 205 6099 US (New York)

+1 669 900 6833 US (San Jose) 877 853 5257 US Toll-free

888 475 4499 US Toll-free

To receive copies of meeting documents email your request including the meeting title and date, to *veteransbusiness@sba.gov.* Those attending the meeting are encouraged to arrive early to allow for security clearance into the building.

For security purposes attendees are asked to:

1. RSVP by sending an email to *veteransbusiness@sba.gov* by November 30, 2019.

2. Know the name of the event being attended: The meeting event is the Interagency Task Force on Veterans Small Business Development (IATF).

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the Interagency Task Force on Veterans Small Business Development (IATF). The IATF is established pursuant to Executive Order 13540 to coordinate the efforts of Federal agencies to improve capital, business development opportunities, and pre-established federal contracting goals for small business concerns owned and controlled by veterans and service-disabled veterans.

The purpose of this meeting is to discuss efforts that support service-disabled veteran-owned small businesses, updates on past and current events, and the IATF's objectives for fiscal year 2020.

Dated: November 19, 2019.

Nicole Nelson,

Committee Management Officer (Acting).

[FR Doc. 2019–25487 Filed 11–22–19; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16204 and #16205; South Dakota Disaster Number SD–00099]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of South Dakota

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of South Dakota (FEMA–4469–DR), dated 11/18/2019.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 09/09/2019 through 09/26/2019.

DATES: Issued on 11/18/2019.

Physical Loan Application Deadline Date: 01/17/2020.

Economic Injury (EIDL) Loan Application Deadline Date: 08/18/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 11/18/2019, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties/Areas: Aurora, Brookings, Brule, Charles Mix, Davison, Douglas, Gregory, Hanson, Hutchinson, Kingsbury, Lake, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union, and Yankton Counties and the Flandreau Santee Indian Reservation and the Yankton Indian Reservation.

The interest rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16204B and for economic injury is 162050.

(Catalog of Federal Domestic Assistance Number 59008)

Cynthia Pitts,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2019–25520 Filed 11–22–19; 8:45 am]

BILLING CODE 8026–03–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 33 (Sub-No. 321X)]

Union Pacific Railroad Company—Abandonment Exemption—in Sheboygan County, Wisconsin

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon rail service over an approximately 1.3-mile portion of the Sheboygan Old Main Line, from milepost 148.2 to milepost 149.5, in the City of Sheboygan, Sheboygan County, Wis. (The Line). The Line traverses U.S. Postal Service Zip Code 53081.

UP has certified that: (1) No local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years and, therefore, there is no need to reroute any traffic; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication), 49 CFR 1152.50(d)(1) (notice to governmental agencies), and 49 CFR 1105.7 and 1105.8 (environmental and historic report), have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) [1] has been received, this exemption will be effective on December 25, 2019, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 5, 2019.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 16, 2019, with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001.

A copy of any petition filed with Board should be sent to UP's representative, Jeremy Berman, General Attorney, 1400 Douglas St., #1580, Omaha, NE 68179.

If the verified notice contains false or misleading information, the exemption is void ab initio.

UP has filed a combined environmental and historic report that addresses the potential effects of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by November 29, 2019. The EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by UP's filing a notice of consummation by November 25, 2020, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at *www.stb.gov*.

Decided: November 19, 2019.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2019–25477 Filed 11–22–19; 8:45 am]

BILLING CODE 4915–01–P

[1] Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.,* subsidy or purchase) and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Filings fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2019–0945]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Bird/Other Wildlife Strike Report

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves voluntary reporting of bird/other wildlife strike information following a wildlife strike incident with aircraft. This data becomes part of the publicly available National Wildlife Strike Database. Strike reports provide critical

information that allows the FAA to determine high-risk species, track national trends, evaluate the FAA's wildlife hazard management program, and provide scientific foundation for regulatory guidance. Additionally, this essential information allows engine and airframe manufacturers to evaluate the effectiveness of aircraft components. It also helps airports identify and mitigate hazardous species and the location of wildlife attractants, affords a better understanding of strike dynamics, and provides key metrics for an airport to evaluate the effectiveness of its wildlife management program.

DATES: Written comments should be submitted by January 24, 2020.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (FAA–2019–0945).

By mail: John Weller, 800 Independence Avenue SW, AAS–300, Room 618, Washington, DC 20591.

By fax: (202) 493–1416.

FOR FURTHER INFORMATION CONTACT: John Weller by email at: *john.weller@faa.gov;* phone: (202) 267–3778.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0045.

Title: Bird/Other Wildlife Strike Report.

Form Numbers: FAA Form 5200–7.

Type of Review: This review is for a renewal of an information collection.

Background: 14 CFR 139.337, Wildlife Hazard Management, requires the FAA to collect wildlife strike data to develop standards and monitor hazards to aviation. Data identify wildlife strike control requirements and provide in-service data on aircraft component failure. Pilots, airport operations staff, aircraft and airport maintenance personnel, air traffic controllers, wildlife biologists, and anyone else having knowledge of a strike report incidents to the FAA, primarily using the web version of FAA Form 5200–7. The data becomes part of the publicly available National Wildlife Strike Database used to enhance safety by airports, airlines, engine and airframe manufacturers, and the FAA. Overall, the number of strikes annually reported to the FAA has increased from 1,850 in 1990 to more than 16,000 in 2018.

Respondents: Approximately 16,020 airport operations staff, pilots, air traffic controllers, wildlife biologists, aircraft and airport maintenance personnel, and others having knowledge of a strike.

Frequency: Information is collected as needed.

Estimated Average Burden per Response: 5 minutes.

Estimated Total Annual Burden: 1,335 hours.

Issued in Washington, DC, on November 19, 2019.

John Weller,

National Wildlife Biologist, Airport Safety and Operations Division, Office of Airports Safety and Standards.

[FR Doc. 2019–25461 Filed 11–22–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

NextGen Advisory Committee (NAC); Notice of Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: This notice announces a meeting of the NextGen Advisory Committee (NAC).

DATES: The meeting will be held on December 12, 2019, from 9:00 a.m.–12:30 p.m. EST.

Requests to attend the meeting in person must be received by December 3, 2019.

Requests to listen-only by telephone must be received by December 3, 2019.

Requests for accommodations to a disability must be received by December 3, 2019.

Anyone who wishes to speak during the meeting must be received by December 3, 2019, along with a written copy of the remarks to be delivered.

Requests to submit written materials to be reviewed by the NAC must be received no later than December 6, 2019, along with a copy of such written materials.

ADDRESSES: The meeting will be held at The MITRE Corporation, MITRE 1 Building Conference Center: 7525 Colshire Drive, McLean, VA 22102. Emails related to registration for attending the meeting should be sent to *9-AWA-ANG-NACRegistration@faa.gov.* Information on the committee, including copies of the meeting minutes, will be available on the NAC internet website at *https://www.faa.gov/about/office_org/headquarters_offices/ang/nac/.*

FOR FURTHER INFORMATION CONTACT: Greg Schwab, NAC Coordinator, U.S. Department of Transportation, at *gregory.schwab@faa.gov* or 202–267–1201. Any requests or questions not regarding attendance registration should be sent to the person listed in this section.

SUPPLEMENTARY INFORMATION:

I. Background

The NAC was created under the Federal Advisory Committee Act (FACA), in accordance with the provisions of the FACA as amended (Pub. L. 92–463, 5 U.S.C. App 2), to provide independent advice and recommendations to the FAA and to respond to specific taskings received directly from the FAA. The NAC recommends consensus-driven advice for FAA consideration relating to Air Traffic Management System modernization.

II. Agenda

At the December 12, 2019 meeting, the agenda will cover the following topics:

- NAC Chairman's Report
- FAA Report
- NAC Subcommittee Chairman's Report:
  - Multiple Runway Operations, Data Communications, Performance Based Navigation, Surface and Data Sharing, and Northeast Corridor
- NAC Chairman Closing Comments

III. Public Participation

The meeting will be open to the public on a first come, first served basis, as space is limited. Members of the public who wish to attend in-person are asked to register via email by submitting your full legal name, country of citizenship, and name of your industry association, or applicable affiliation, to *9-AWA-ANG-NACRegistration@faa.gov.* For Foreign National attendees, please also provide your company/organization country.

Individuals requiring accessibility accommodations, such as sign language, interpretation, or other ancillary aids, may request by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

For members of the public who wish to listen-only by telephone, provide your full name, company/organization you are representing, title/position, and contact information (telephone number

and email address) to *9-AWA-ANG-NACRegistration@faa.gov* and you will be provided the teleconference call-in number and passcode. Callers are responsible for paying associated long-distance charges.

With prior approval of the NAC Chair, members of the public may present oral statements at the meeting. To accommodate as many speakers as possible, the time for each is limited to two minutes. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration. Speakers are required to submit a copy of their prepared remarks for inclusion in the meeting records and for circulation to NAC members to the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. All prepared remarks submitted on time will be considered as part of the record.

Persons who wish to only submit written comments to the NAC may do so. All written comments submitted to the person listed under the heading **FOR FURTHER INFORMATION CONTACT** in time will be reviewed and considered for inclusion as part of the record. Comments received after the due date will be distributed to the members but may not be reviewed prior to the meeting.

Dated: November 20, 2019.

Tiffany Ottilia McCoy,

General Engineer, NextGen Office of Collaboration and Messaging, ANG–M, Office of the Assistant Administrator for NextGen, Federal Aviation Administration.

[FR Doc. 2019–25484 Filed 11–22–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in Utah

AGENCY: Utah Department of Transportation (UDOT), Federal Highway Administration (FHWA), Department of Transportation.

ACTION: Notice of limitations on claims for judicial review of actions by UDOT and the National Park Service (NPS).

SUMMARY: The FHWA, on behalf of UDOT, is issuing this notice to announce actions taken by UDOT and NPS that are final Federal agency actions. The final agency actions relate to a proposed highway project, improvements to State Route 12 (SR–12), from milepost (MP) 14.42 to MP 18.16 in the Bryce Canyon National Park (BCRA), Garfield County, State of Utah. Those actions grant licenses, permits and/or approvals for the project. The Environmental Assessment prepared jointly by UDOT and NPS, and the Findings of No Significant Impact issued by UDOT and NPS, provide details on the Selected Alternative for the proposed improvements.

DATES: By this notice, FHWA, on behalf of UDOT, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before April 23, 2020. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Naomi Kisen, Environmental Program Manager, UDOT Environmental Services, P.O. Box 143600, Salt Lake City, UT 84114; (801)-965–4005; email: *nkisen@udot.gov.* UDOT's normal business hours are 8 a.m. to 5 p.m. (Mountain Time Zone), Monday through Friday, except State and Federal holidays.

SUPPLEMENTARY INFORMATION: Effective January 17, 2017, FHWA assigned to UDOT certain responsibilities of FHWA for environmental review, consultation, and other actions required by applicable Federal environmental laws and regulations for highway projects in Utah, pursuant to 23 U.S.C. 327. Actions taken by UDOT on FHWA's behalf pursuant to 23 U.S.C. 327 constitute Federal agency actions for purposes of Federal law. Notice is hereby given that UDOT and the NPS have taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the SR–12 Road Stabilization and Improvements project in the State of Utah.

The project proposes to construct a transportation solution to address long-term road stabilization near the 2017 landslide area, preserve infrastructure, and improve traffic mobility and safety along the existing SR–12 by providing a transportation corridor that improves access for vehicles, bicyclists, and pedestrians. The proposed project is on a 3.74-mile section of SR–12 between MP 14.42 and MP 18.16 in BRCA, Garfield County, Utah. These improvements were identified in the Environmental Assessment (EA) jointly prepared for the project by UDOT and NPS as Alternative 2. The project is included in UDOT's adopted 2020–2025 State Transportation Improvement Plan (STIP) as project number F–0012(43)15; PIN 15632.

The actions by UDOT and NPS, and the laws under which such actions were taken, are described in the EA approved on September 27, 2019, the UDOT FONSI (Finding of No Significant Impact for State Route 12 Road Stabilization and Improvements in Garfield County, Utah, Project No. F–0012(43)15) approved on October 10, 2019, the NPS FONSI (Finding of No Significant Impact, State Route 12 Road Stabilization and Improvements, approved on September 18, 2019), and other documents in the UDOT and NPS project records. The EA and the UDOT and NPS FONSIs are available for review by contacting UDOT at the address provided above. In addition, these documents can be viewed and downloaded from the UDOT project website at *https://www.udot.utah.gov/projectpages/f?p=250%3A2007%3A%3A%3ANO%3A%3AP2007_EPM_PROJ_XREF_NO%2CP2007_PROJECT_TYPE_IND_FLAG%3A12995%2CA.* The NPS FONSI is also available from the NPS project website at *https://parkplanning.nps.gov/projectHome.cfm?projectID=81089.* This notice applies to the EA, the FONSIs, the Section 4(f) determination, the NHPA Section 106 review, the Endangered Species Act determination, the NPS Non-Impairment Determination, the NPS determination to issue and the UDOT determination to acquire a permanent transportation easement, and all other UDOT, NPS and other federal agency decisions and other actions with respect to the project as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to the following laws (including their implementing regulations):

1. *General:* National Environmental Policy Act [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128]; MAP–21, the Moving Ahead for Progress in the 21st Century Act [Pub. L. 112–141].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–470(ll)]; Archeological

and Historic Preservation Act [16 U.S.C. 469–469(c)].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Clean Water Act (Section 404, Section 401, Section 319) [33 U.S.C. 1251–1377]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(M, 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986; Resource Conservation and Recovery Act [42 U.S.C. 6901–6992(k)].

9. *Noise:* Federal-Aid Highway Act of 1970, Public Law 91–605 [84 Stat. 1713].

10. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

11. *Permanent Transportation Easement and NPS Project Approval:* 23 U.S.C. chapters 1 & 2; 23 CFR 710.601; The NPS Organic Act of 1916 and the General Authorities Act of 1970 [16 U.S.C. l–4]; NPS Director's Order #87D (NPS 2000).

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139 (l)(1).

Issued on: November 18, 2019.

Ivan Marrero,

Division Administrator, Federal Highway Administration, Salt Lake City, Utah.

[FR Doc. 2019–25452 Filed 11–22–19; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans).

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that are final. The actions relate to a proposed highway project, Del Rio Trail Project in the City of Sacramento, Sacramento County, California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before April 23, 2020. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Laura Loeffler, Branch Chief, Caltrans Office of Environmental Management, M–1 California Department of Transportation—District 3, 703 B Street, Marysville, CA 95901. Office hours: 8:00 a.m.–5:00 p.m., Pacific Standards time, telephone (530) 741–4592 or email *laura.loeffler@dot.ca.gov.* For FHWA, contact David Tedrick at (916) 498–5024 or email *david.tedrick@dot.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the FHWA assigned, and Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: Caltrans, in conjunction with the City of Sacramento, propose to construct 4.8 miles of Class I multi-use trail along the abandoned railway corridor west of Freeport Boulevard from south of Meadowview Road/Pocket Road to the Sacramento River Parkway north of Sutterville Road. The proposed project consists of a Class I multi-use trail (12 feet wide with 2-foot shoulders). The trail would include at-grade crossings and intersection modifications at each major arterial location. The project begins approximately 0.4 miles south of Pocket Road near the Freeport Water Tower adjacent to the I–5 bridge over Freeport Boulevard, and extends 4.8 miles north along the abandoned railway corridor within the City of Sacramento. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Categorical Exclusion, approved on October 25, 2019, and in other documents in the FHWA project records. The Categorical Exclusion and other project records are available by contacting Caltrans at the addresses provided above.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. Council on Environmental Quality Regulations (40 CFR 1500 *et seq.*, 23 CFR 771);
2. National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*;
3. Federal-Aid Highway Act of 1970, (23 U.S.C § 109, as amended by FAST Act Section 1404(a), Pub. L. 114–94, and 23 U.S.C. 128);
4. MAP–21, the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141);
5. Clean Air Act, as amended (42 U.S.C. 7401 *et seq.* (Transportation Conformity), 40 CFR part 93);
6. Clear Water Act of 1977 and 1987, (33 U.S.C. 1251 *et seq.*);
7. Federal Water Pollution Control Act of 1972 (see Clean Water Act of 1977 & 1987);
8. Federal Land Policy and Management Act of 1976, Public Law 94–579;
9. Noise Control Act of 1972;
10. Safe Drinking Water Act of 1944, as amended;
11. Endangered Species Act of 1973;
12. Executive Order 11990, Protection of Wetlands Executive Order 13112, Invasive Species;
13. Executive Order 13186, Migratory Birds;
14. Fish and Wildlife Coordination Act of 1934, as amended;
15. Wildflowers, Surface Transportation and Uniform Relocation Act of 1987, Section 130;
16. Executive Order 11988, Floodplain Management;
17. Department of Transportation (DOT) Executive Order 5650.2—Floodplain Management and Protection (April 23,1979);
18. Rivers and Harbors Appropriation Act of 1899, Sections 9 and 10;

19. Title VI of the Civil Rights Act of 1964, as amended;

20. Executive Order 12898, Federal Actions to Address Environmental 18. Executive Order 13112, Invasive Species;

21. Department of Transportation Act of 1966, Section 4(f) (49 U.S.C. 303 and 23 U.S.C. 138);

22. National Historic Preservation Act of 1966, as amended (54 U.S.C. 306108 *et seq.*);

23. Migratory Bird Treaty Act;

24. Executive Order 13112, Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1)

Issued on: November 19, 2019.

Tashia J. Clemons,

Director, Planning and Environment, Federal Highway Administration, California Division.

[FR Doc. 2019–25541 Filed 11–22–19; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0091]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Navistar Inc.

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

ACTION: Notice of final disposition.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant Navistar Inc.'s (Navistar) application for a limited 5-year exemption to allow its advanced driver-assistance systems (ADAS) to be mounted lower in the windshield on Navistar's commercial motor vehicles (CMV) than is currently permitted. The Agency has determined that lower placement of the ADAS would not have an adverse impact on safety and that adherence to the terms and conditions of the exemption would achieve a level of safety equivalent to or greater than the level of safety provided by the regulation.

DATES: This exemption is effective November 25, 2019 and ending November 25, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Jose R. Cestero, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–5541, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Docket: For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the FMCSRs. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Navistar's Application for Exemption

Navistar applied for an exemption from 49 CFR 393.60(e)(1) to allow its ADAS to be mounted lower in the windshield than is currently permitted by the Agency's regulations in order to utilize a location that allows optimal functionality of the camera system. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.60(e)(1)(i) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted at the top of the windshield. Antennas and similar devices must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield, and outside the driver's sight lines to the road and highway signs and signals. However, § 393.60(e)(1)(i) does not apply to ''vehicle safety technologies,'' as defined in § 393.5, that include ''a fleet-related incident management system, performance or behavior management system, speed management system, forward collision warning or mitigation system, active cruise control system, and transponder.'' Section 393.60(e)(1)(ii) requires devices with ''vehicle safety technologies'' to be mounted (1) not more than 100 mm (4 inches) below the upper edge of the area swept by the windshield wipers, or (2) not more than 175 mm (7 inches) above the lower edge of the area swept by the windshield wipers, and (3) outside the driver's sight lines to the road and highway signs and signals.

In its application, Navistar states that its ADAS currently includes features such as enhanced rear-end collision mitigation, adaptive cruise control along with following distance alerts, stationary object alerts, lane departure warning, alerts when speeding, and automatic braking on stationary vehicles. Navistar states that the proposed exemption will increase safety by providing these ADAS features on its CMVs. Navistar notes that the exemption will also allow it to enable additional safety features in the future that will provide further safety benefits such as traffic sign recognition, active lane keeping, and driver fatigue monitoring. In addition, Navistar states that the ADAS will become a critical enabler for future technology such as autonomous vehicles.

The camera housing is approximately 120 mm (4.72 inches) wide by 120 mm (4.72 inches) tall, and will be mounted in the approximate center of the top of the windshield such that the bottom edge of the camera housing is approximately 8 inches below the upper edge of the windshield wipers, outside of the driver's and passenger's normal sight lines to the road ahead, highway signs and signals, and all mirrors. This location will allow for proper installation (including connectors and cables) for optimal functionality of the advanced safety systems supported by the camera.

Navistar states that mounting the ADAS in this location does not significantly obstruct specified zones A, B, or C for passenger cars in Federal

Motor Vehicle Safety Standard No. 104, ''Windshield wiping and washing systems.'' [1]

Navistar installed prototype camera housings in several of its CMVs, and operated them in typical over-the-road conditions for a period of six months. Navistar states that all drivers and passengers agreed that there was no noticeable obstruction to the normal sight lines to the road ahead, highway signs, signals or any m

Without the proposed exemption, Navistar states that it will be unable to mount the ADAS on its CMVs due to concerns that (1) its ''customers may be in violation of the current regulation,'' and (2) ''the camera will not perform adequately to provide the safety benefit intended by the systems.''

The exemption would apply to all CMV operators driving Navistar vehicles equipped with its ADAS mounted on the windshield. Navistar believes that mounting the system as described will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

Comments

FMCSA published a notice of the application in the **Federal Register** on April 18, 2019, and asked for public comment (84 FR 16328). The Agency received no comments.

FMCSA Decision

FMCSA has evaluated the Navistar exemption application. The ADAS camera system housing is approximately 4.72 inches tall, and is mounted near the top of the center of the windshield with the bottom of the camera housing located approximately 8 inches below the top of the area swept by the windshield wipers. The camera needs to be mounted in this location for optimal functionality of the ADAS system. The size of the camera system precludes mounting it (1) higher in the windshield, and (2) within 4 inches from the top of the area swept by the windshield wipers to comply with § 393.60(e)(1)(ii)(A).

The Agency believes that granting the temporary exemption to allow the placement of the ADAS lower than currently permitted by the Agency's regulations will provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because (1) based on the technical information available, there is no indication that the ADAS would obstruct drivers' views of the roadway, highway signs and surrounding traffic; (2) generally, trucks and buses have an elevated seating position that greatly improves the forward visual field of the driver, and any impairment of available sight lines would be minimal; and (3) the mounting location 8 inches below the upper edge of the windshield and out of the driver's normal sightline will be reasonable and enforceable at roadside. In addition, the Agency believes that the use of ADAS by fleets is likely to improve the overall level of safety to the motoring public.

This action is consistent with previous Agency action permitting the placement of similarly-sized devices on CMVs outside the driver's sight lines to the road and highway signs and signals. FMCSA is not aware of any evidence showing that the installation of other vehicle safety technologies mounted on the interior of the windshield has resulted in any degradation in safety.

Terms and Conditions for the Exemption

The Agency hereby grants the exemption for a 5-year period, beginning November 25, 2019 and ending November 25, 2024. During the temporary exemption period, motor carriers will be allowed to operate CMVs equipped with Navistar's ADAS in the approximate center of the top of the windshield and such that the bottom edge of the camera housing is approximately 8 inches below the upper edge of the windshield, outside of the driver's and passenger's normal sight lines to the road ahead, highway signs and signals, and all mirrors. The exemption will be valid for 5 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) Motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Interested parties possessing information that would demonstrate that motor carriers operating Navistar CMVs equipped with its ADAS are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Issued on: November 18, 2019.

Jim Mullen,

Deputy Administrator.

[FR Doc. 2019–25494 Filed 11–22–19; 8:45 am]

BILLING CODE 4910–EX–P

[1] FMVSS No. 104 does not specify minimum swept areas for truck and buses.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2019–0089]

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 28, 2019, Norfolk Southern Corporation (NS), petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 231, *Railroad Safety Appliance Standards.* Specifically, NS seeks relief from § 231.6(a)(3)(i) for a designated series of NS maintenance-of-way (MW) flat cars (NS 980011, NS 986906, CR 62753, CR 58574, CR 58568, CR 58535, CR 58515, CR 58563, and CR 58708). FRA assigned the petition Docket Number FRA–2019–0089.

In line with the requirements of § 231.6(a)(3)(i), on June 15, 1998, FRA issued Technical Bulletin MP&E 98–69, *Safety Appliance Arrangements on Flat Cars,* recommending an additional handhold for any flat car with a low-mounted side hand brake to allow for the safe operation of the hand brake while the car is in motion. NS seeks relief to permit these MW cars to remain in service with their current hand brake arrangement and without the additional handhold outlined in MP&E 98–69.

NS indicates it will not operate the hand brake on these MW cars while the cars are in motion. NS states that these cars have had a long-standing service life with no detriment to the hand brake operation. NS contends that the supplemental handholds, as outlined in MP&E 98–69, could obstruct the loading or unloading of track equipment. NS posits that this could result in damage

to the additional handholds any time the car is loaded or unloaded.

NS explains that the subject cars are currently stenciled ''MW'' as per 49 CFR 215.305, and they will remain in that dedicated service. NS states it will add additional stenciling with the words ''DO NOT OPERATE HANDBRAKE WHILE CAR IS IN MOTION'' in the area of the hand brake. NS states it will add a handling message on the NS Internal Alert System notifying persons that the hand brakes on these cars cannot be operated while the cars are in motion.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

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: http://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 Ave. SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by January 9, 2020 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. 2019–25422 Filed 11–22–19; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2019–0090]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on November 12, 2019, Norfolk Southern Corporation (NS) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 232, *Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment.* FRA assigned the petition Docket Number FRA–2019–0090.

Specifically, NS seeks relief from § 232.305(b)(2), which requires a single car air brake test (SCABT) when a ''car is on a shop or repair track . . . for any reason and has not received a [SCABT] within the previous 12-month period.'' NS requests to replace FRA-condemnable and other non-condemnable wheelsets on railcars as part of an in-train wheelset replacement program, without performing the required SCABT. NS explains that railcars due for 5- and 8-year SCABTs would still be addressed. The NS system alert notifications are viewable to NS repair personnel for railcars that are due SCABTs. NS asks that this relief apply to all NS unit trains receiving in-train wheel replacement as part of NS's in-train wheelset replacement program, on two designated tracks at the NS railyard in Bluefield, West Virginia.

NS desires to implement this program to proactively identify and replace wheelsets. In-train wheelset replacements can be done by NS mechanical forces in as little as 15 minutes with no need to remove the cars from trains. This reduces the number of switching events that would otherwise be required to repair cars, reducing the risk of injury and derailment. Additionally, in-train wheelset replacement will permit NS to replace a greater percentage of wheelsets than those currently replaced using traditional techniques.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

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: http://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 Ave. SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by January 9, 2020 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. 2019–25423 Filed 11–22–19; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2019–0019]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describe the nature of the information collection and their expected burdens.

DATES: Comments must be submitted on or before December 26, 2019.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: FTA Desk Officer. Alternatively, comments may be sent via email to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, at the following address: *oira_submissions@omb.eop.gov*

Comments are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Tia Swain, Office of Administration, Management Planning Division, 1200 New Jersey Avenue SE, Mail Stop TAD–10, Washington, DC 20590 (202) 366–0354 or *tia.swain@dot.gov.*

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On June 18, 2019, FTA published a 60-day notice (84 FR 28383) in the **Federal Register** soliciting comments on the ICR that the agency was seeking OMB approval. FTA received no comments after issuing this 60-day notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The requirements are being submitted for clearance by OMB as required by the PRA.

Title: 49 U.S.C. Section 5339 Bus and Bus Facilities Formula Program.

OMB Control Number: 2132–0576.

Type of Request: Renewal of a previously approved information collection.

Abstract: The Buses and Bus Facilities Program (49 U.S.C. 5339) makes federal resources available to states and direct recipients to replace, rehabilitate and purchase buses and related equipment and to construct bus-related facilities including technological changes or innovations to modify low or no emission vehicles or facilities. Funding is provided through formula allocations and competitive grants. A sub-program, the Low- or No-Emission Vehicle Program, provides competitive grants for bus and bus facility projects that support low and zero-emission vehicles.

Respondents: Designated recipients that operate fixed route bus service or that allocate funding to fixed route bus operators; state or local governmental entities; and federally recognized Indian tribes that operate fixed route bus service that are eligible to receive direct grants under 5307 and 5311.

Estimated Annual Number of Respondents: 1,885.

Estimated Total Annual Burden: 60,650 hours.

Frequency: Annually.

Nadine Pembleton,

Director Office of Management Planning.

[FR Doc. 2019–25499 Filed 11–22–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2019–0025]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the extension of a currently approved information collection.

DATES: Comments must be submitted before January 24, 2020.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Website: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government

electronic docket site. (*Note:* The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov*. Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to internet users, without change, to *www.regulations.gov*. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov*. Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Kelly Tyler (202) 366–3102 or email: *Kelly.tyler@dot.gov*.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: 49 U.S.C. 5317 New Freedom Program.

(*OMB Number:* 2132–0565).

Background: The purpose of the New Freedom program was to make grants available to assist states and designated recipients to reduce barriers to transportation services and expand the transportation mobility options available to people with disabilities beyond the requirements of the Americans with Disabilities Act (ADA) of 1990. The New Freedom program was repealed in 2012 with the enactment of the Moving Ahead for Progress in the 21st Century Act (MAP–21). However, funds previously authorized for programs repealed by MAP–21 remain available for their originally authorized purposes until the period of availability expires, the funds are fully expended, the funds are rescinded by Congress, or the funds are otherwise reallocated. To meet program oversight responsibilities, FTA must continue to collect information until the period of availability expires, the funds are fully expended, the funds are rescinded by Congress, or the funds are otherwise reallocated. Grant recipients are required to make information available to the public and to publish a program of projects which identifies the sub-recipients and projects for which the State or designated recipient is applying for financial assistance. FTA uses the information to monitor the grantees' progress in implementing and completing project activities. FTA collects performance information annually from designated recipients in rural areas, small urbanized areas, other direct recipients for small urbanized areas, and designated recipients in urbanized areas of 200,000 persons or greater.

Respondents: State and local government, private non-profit organizations and public transportation authorities.

Estimated Annual Number of Respondents: 106.

Estimated Total Annual Burden: 4,240.

Frequency: Annually.

Nadine Pembleton,

Director, Office of Management Planning.

[FR Doc. 2019–25498 Filed 11–22–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2019–0023]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describe the nature of the information collection and their expected burdens.

DATES: Comments must be submitted on or before December 26, 2019.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street NW Washington, DC 20503, Attention: FTA Desk Officer. Alternatively, comments may be sent via email to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, at the following address: *oira_submissions@omb.eop.gov*.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Tia Swain, Office of Administration, Management Planning Division, 1200 New Jersey Avenue, SE, Mail Stop TAD–10, Washington, DC 20590 (202) 366–0354 or *tia.swain@dot.gov*.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its

implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On July 18, 2019, FTA published a 60-day notice (84 FR 34474) in the **Federal Register** soliciting comments on the ICR that the agency was seeking OMB approval. FTA received no comments after issuing this 60-day notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The requirements are being submitted for clearance by OMB as required by the PRA.

Title: 49 U.S.C. Section 5310 Capital Assistance Program for Elderly Persons and Persons with Disabilities & Section 5311 Formula Grants for Rural Areas Program.

OMB Control Number: 2132–0500.

Type of Request: Renewal of a previously approved information collection.

Abstract: 49 U.S.C. 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program provides financial assistance for the specialized transportation service needs of elderly persons and persons with disabilities in large urban, small urban and rural areas. Formula funding is apportioned to direct recipients: States for rural (under 50,000 population) and small urban areas (50,000–200,000); and designated recipients chosen by the Governor of the State for large urban areas (populations or 200,000 or more); or a State or local governmental entity that operates a public transit service. Section 3006(b) of Fixing America's Surface Transportation Act (FAST Act), Public Law 114–94 authorized a pilot program for innovative coordinated access and mobility. 49 U.S.C. 5311—Formula Grants for Rural Areas Program provides financial assistance for the provision of public transportation services in rural areas. This program is administered by States. The Public Transportation on Indian Reservations Program or Tribal Transit Program (TTP), is authorized as 49 U.S.C. 5311(j). The TTP is a set-aside from the Rural Area Formula Program (Section 5311), and consists of a $30 million formula program and a $5 million competitive grant program. These funds are apportioned directly to Indian tribes. Eligible recipients of TTP program funds include federally recognized Indian tribes, or Alaska Native villages, groups, or communities as identified by the Bureau of Indian Affairs. 49 U.S.C. 5310 and 5311 authorize FTA to review applications for federal financial assistance to determine eligibility and compliance with statutory and administrative requirements. The applications must contain sufficient information to enable FTA to make the findings required by law to enforce the requirements of the programs. Information collected during the project management stage provides a basis for monitoring approved projects to ensure timely and appropriate expenditure of federal funds by grant recipients.

Respondents: State or local governmental entities that operates a public transportation service.

Estimated Annual Number of Respondents: 523 respondents.

Estimated Total Annual Burden: 54,727 hours.

Frequency: Annual.

Nadine Pembleton,

Director Office of Management Planning.

[FR Doc. 2019–25496 Filed 11–22–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0190]

Request for Comments of a Previously Approved Information Collection

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on August 27, 2019.

DATES: Comments must be submitted on or before December 26, 2019.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Daniel Ladd, 202–366–1859, Office of Financial Approvals, Maritime Administration, Department of Transportation, 1200 New Jersey Avenue SE, W26–494, Washington, DC 20590, 202–366–2321.

SUPPLEMENTARY INFORMATION:

Title: Capital Construction Fund and Exhibits.

OMB Control Number: 2133–0027.

Type of Request: Renewal of a Previously Approved Information Collection.

Background: This information collection consists of an application for a Capital Construction Fund (CCF) agreement under 46 U.S.C. Chapter 535 and annual submissions of appropriate schedules and exhibits. The Capital Construction Fund is a tax-deferred ship construction fund that was created to assist owners and operators of U.S.-flag vessels in accumulating the large amount of capital necessary for the modernization and expansion of the U.S. merchant marine. The program encourages construction, reconstruction, or acquisition of vessels through the deferment of Federal income taxes on certain deposits of money or other property placed into a CCF.

Respondents: Owners and Operators of U.S.-flag Vessels.

Affected Public: Business or other for profit.

Total Estimated Number of Responses: 143.

Frequency of Collection: Annually.

Estimated time per Respondent: 13.5.

Total Estimated Number of Annual Burden Hours: 1931.

Public Comments Invited: Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of

the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.

* * *

Dated: November 19, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–25417 Filed 11–22–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0188]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LITTLE VIGILANT (Motorsailer); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before December 26, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0188 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0188 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0188, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel LITTLE VIGILANT is:

—*Intended Commercial Use of Vessel:* ''Mystic Seaport Museum intends to use the vessel Little Vigilant for member and visitor enrichment programs, advancement fundraising cruises, and adult and youth training voyages mostly in the Mystic, CT area, but occasionally voyaging further along the U.S. East Coast.''

—*Geographic Region Including Base of Operations:* ''Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York (except New York Harbor), New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas'' (Base of Operations: Mystic, CT)

—*Vessel Length and Type:* 71′ motorsailer

The complete application is available for review identified in the DOT docket as MARAD–2019–0188 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2019–0188 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves,

all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

* * * * *

Dated: November 19, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–25420 Filed 11–22–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0187]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel CATCH ME IF YOU CAN (Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before December 26, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0187 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Search MARAD–2019–0187 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0187, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel CATCH ME IF YOU CAN is:

—*Intended Commercial Use of Vessel:* ''charter and pleasure boating''

—*Geographic Region Including Base of Operations:* ''*Florida*'' *(Base of Operations:* Fort Lauderdale, FL)

—*Vessel Length and Type:* 51' motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2019–0187 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2019–0187 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy*. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

* * * * *

Dated: November 19, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–25418 Filed 11–22–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0167]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel VINCITORE (Sailboat); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before December 26, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0167 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0167 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0167, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel VINCITORE is:

—*Intended Commercial Use of Vessel:* ''There is no commercial use of the vessel. The boat will be used as a fundraising platform four times per year.''

—*Geographic Region Including Base of Operations:* ''Illinois'' (Base of Operations: Chicago, IL)

—*Vessel Length and Type:* 59′ sailboat

The complete application is available for review identified in the DOT docket as MARAD–2019–0167 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2019–0167 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

* * * * *

Dated: November 19, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–25421 Filed 11–22–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0189]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel AHA (Sail Catamaran); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is

authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before December 26, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0189 by any one of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0189 and follow the instructions for submitting comments.

• *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0189, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel AHA is:

—*Intended Commercial Use of Vessel:* ''For captained charters''
—*Geographic Region Including Base of Operations:* ''California'' (Base of Operations: Marina Del Ray, CA)
—*Vessel Length and Type:* 35′ sail catamaran

The complete application is available for review identified in the DOT docket as MARAD–2019–0189 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2019–0189 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121

* * * * *

Dated: November 19, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–25419 Filed 11–22–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0044; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming Model Year 2003 Elddis Omega Compass Liberte Caravan Single Axle Camper Trailers Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: This document announces the National Highway Traffic Safety Administration (NHTSA) receipt of a petition for a decision that model year (MY) 2003 Elddis Omega Compass Liberte Caravan single axle camper trailers that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS), are eligible for importation into the United States because they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is December 26, 2019.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the 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 comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard along with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Robert Mazurowski, Office of Vehicle Safety Compliance, NHTSA (202–366–1012).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same MY as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice of each petition that it receives in the **Federal Register**, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

America's Import & Export Authority Inc., (Registered Importer R–17–423), of Fort Myers, Florida has petitioned NHTSA to decide whether nonconforming MY 2003 Elddis Omega Compass Liberte Caravan single axle camper trailers are eligible for importation into the United States. The vehicles which America's Import & Export Authority Inc. believes are capable of being readily altered to conform to all applicable FMVSS.

America's Import & Export Authority Inc. submitted information with its petition intended to demonstrate that non-U.S. certified MY 2003 Elddis Omega Compass Liberte Caravan single axle camper trailers, as originally manufactured, conform to many applicable FMVSS, or are capable of being readily altered to conform to those standards. Specifically, the petitioner claims that the non-U.S. certified MY 2003 Elddis Omega Compass Liberte Caravan single axle camper trailers, as originally manufactured, are only subject to: FMVSS Nos. 108, *Lamps, Reflective Devices and Associated Equipment,* 109, *New pneumatic and certain specialty tires,* 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less.* The petitioner also contends that the subject non-U.S. certified vehicles are capable of being readily altered to meet the following FMVSS, in the manner indicated:

FMVSS No. 108, *Lamps, Reflective Devices and Associated Equipment:* Installation of rear reflectors, side markers, side reflectors, clearance lamps, identification lamps and upper lights, front side marker lamps and reflectors, intermediate side marker lamps and reflectors, and license plate lamp.

FMVSS No. 109, *New pneumatic and certain specialty tires:* Installation of tire placard with certification label.

FMVSS No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less:* Installation of DOT compliant wheels.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2019–25482 Filed 11–22–19; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2017–0028; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming Model Year 2014 to 2018 Bentley GT Continental Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: This document announces the National Highway Traffic Safety Administration (NHTSA) receipt of a petition for a decision that model year (MY) 2014 to 2018 Bentley GT Continental passenger cars (PCs) that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS), are eligible for importation into the United States because they are substantially similar to vehicles that

were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the 2014 to 2018 Bentley GT Continental PCs) and are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is December 26, 2019.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the 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 comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/*. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard along with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000, (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Robert Mazurowski, Office of Vehicle Safety Compliance, NHTSA (202–366–1012).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same MY as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice of each petition that it receives in the **Federal Register**, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

G&K Automotive Conversion, Inc, (Registered Importer R–90–007), of Santa Ana, California has petitioned NHTSA to decide whether nonconforming 2014 to 2018 Bentley GT Continental PCs are eligible for importation into the United States. The vehicles which G&K Automotive Conversion, Inc. (G&K Automotive Conversion) believes are substantially similar are MY 2014 to 2018 Bentley GT Continental PCs sold in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it compared non-U.S. certified MY 2014 to 2018 Bentley GT Continental PCs to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

G&K Automotive Conversion submitted information with its petition intended to demonstrate that non-U.S. certified MY 2014 to 2018 Bentley GT Continental PCs, as originally manufactured, conform to many applicable FMVSS in the same manner as their U.S.-certified counterparts, or are capable of being readily altered to conform to those standards. Specifically, the petitioner claims that the non-U.S. certified MY 2014 to 2018 Bentley GT Continental PCs, as originally manufactured, conform to: FMVSS Nos. 102, *Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect,* 103, *Windshield Defrosting and Defogging Systems,* 104, *Windshield Wiping and Washing Systems,* 106, *Brake Hoses,* 113, *Hood Latch System,* 114, *Theft Protection and Rollaway Prevention,* 116, *Motor Vehicle Brake Fluids,* 118, *Power-Operated Window, Partition, and Roof Panel System,* 124, *Accelerator Control Systems,* 126, *Electronic Stability Control Systems,* 135, *Light Vehicle Brake Systems,* 138, *Tire Pressure Monitoring Systems,* 139, *New Pneumatic Radial Tires for Light Vehicles,* 201, *Occupant Protection in Interior Impact,* 202, *Head Restraints; Applicable at the Manufacturers Option until September 1, 2009,* 204, *Steering Control Rearward Displacement,* 205, *Glazing Materials,* 206, *Door Locks and Door Retention Components,* 207, *Seating Systems,* 208, *Occupant Crash Protection,* 209, *Seat Belt Assemblies,* 210, *Seat Belt Assembly Anchorages,* 212, *Windshield Mounting,* 214, *Side Impact Protection,* 216, *Roof Crush Resistance; Applicable unless a Vehicle is Certified to § 571.216a,* 219, *Windshield Zone Intrusion,* 301, *Fuel system integrity,* and 302, *Flammability of Interior Materials.*

The petitioner also contends that the subject non-U.S certified vehicles are capable of being readily altered to meet the following FMVSS, in the manner indicated:

FMVSS No. 101, *Controls and Displays:* Programming of the speedometer. FMVSS No. 108, *Lamps, Reflective Devices and Associated Equipment:* Replacement of front and rear side markers, and replacement of headlamps. FMVSS No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less:* Installation of the required tire information placard. FMVSS No. 111,

Rear Mirrors: Inscription of the required warning statement on the face of the passenger mirror. FMVSS No. 225, *Child Restraint Anchorage Systems:* Installation of child restraint anchorages. FMVSS No. 401, *Interior trunk release:* Installation of interior trunk release.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicle, near the left windshield pillar, to meet the requirements of 49 CFR part 565, as well as, a reference and certification label added to the left front door post area to meet the requirements of 49 CFR part 567.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2019–25481 Filed 11–22–19; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Publication of the Tier 2 Tax Rates

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: Publication of the tier 2 tax rates for calendar year 2020 as required by section 3241(d) of the Internal Revenue Code. Tier 2 taxes on railroad employees, employers, and employee representatives are one source of funding for benefits under the Railroad Retirement Act.

DATES: The tier 2 tax rates for calendar year 2020 apply to compensation paid in calendar year 2020.

FOR FURTHER INFORMATION CONTACT: Kathleen Edmondson, CC:EEE:EOET:ET1, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, Telephone Number (202) 317–6798 (not a toll-free number).

Tier 2 Tax Rates: The tier 2 tax rate for 2020 under section 3201(b) on employees is 4.9 percent of compensation. The tier 2 tax rate for 2020 under section 3221(b) on employers is 13.1 percent of compensation. The tier 2 tax rate for 2020 under section 3211(b) on employee representatives is 13.1 percent of compensation.

Dated: November 19, 2019.

Victoria A. Judson,

Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes).

[FR Doc. 2019–25552 Filed 11–22–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 720–TO

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Terminal Operator Report.

DATES: Written comments should be received on or before January 24, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments to Dr. Philippe Thomas, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, at (202) 317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Terminal Operator Report.

OMB Number: 1545–1734.

Form Number: 720–TO.

Abstract: Representatives of the motor fuel industry, state governments, and the Federal government are working to ensure compliance with excise taxes on motor fuels. This joint effect has resulted in a system to track the movement of all products to and from terminals. Form 720–TO is an information return that will be used by terminal operators to report their monthly receipts and disbursements of products.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 504,000.

Estimated Time per Respondent: 4 hours, 40 minutes.

Estimated Total Annual Burden Hours: 2,347,020.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 19, 2019.

Philippe Thomas,

Supervisory Tax Analyst.

[FR Doc. 2019–25506 Filed 11–22–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1128

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and

other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Application To Adopt, Change, or Retain a Tax Year.

DATES: Written comments should be received on or before January 24, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments to Dr. Philippe Thomas, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, at (202)317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Application To Adopt, Change, or Retain a Tax Year.

OMB Number: 1545–0134.

Form Number: 1128.

Abstract: Section 442 of the Internal Revenue Code requires that a change in a taxpayer's annual accounting period be approved by the Secretary. Under regulation section 1.442–1(b), a taxpayer must file Form 1128 to secure prior approval unless the taxpayer can automatically make the change. The IRS uses the information on the form to determine whether the application should be approved.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, Individuals, Not-for-profit institutions, and Farms.

Estimated Number of Respondents: 9,788.

Estimated Time per Respondent: 23 hours, 43 minutes.

Estimated Total Annual Burden Hours: 232,066.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 19, 2019.

Philippe Thomas,

Supervisory Tax Analyst.

[FR Doc. 2019–25505 Filed 11–22–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Proposed Collection; Comment Request; Small Business Electronic Capabilities Statement (SB-eCS)

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 January 24, 2020.

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 Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov*.

SUPPLEMENTARY INFORMATION:

Title: Small Business Electronic Capabilities Statement (SB-eCS).

OMB Control Number: 1505–0220.

Type of Review: Reinstatement with change.

Description: The Electronic Capability Statement will be used by firms that wish to do business with the Department of the Treasury, The form will capture key information such as NAICS, contract and subcontract award information, and past performance. The information will be stored in a database. The database will be used by OSDBU, Treasury Acquisition staff and the Troubled Asset Relief Program to conduct research when searching for small businesses to perform on Treasury contracts.

Form: None.

Affected Public: All businesses who are interested in doing business with Treasury.

Estimated Number of Respondents: 537.

Frequency of Response: Once.

Estimated Total Number of Annual Responses: 537.

Estimated Time per Response: 30–45 minutes.

Estimated Total Annual Burden Hours: 403.

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: November 20, 2019.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2019–25504 Filed 11–22–19; 8:45 am]

BILLING CODE 4810–25–P

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